United States Court of Appeals

for the Second Circuit

APPENDIX

ORIGINAL

75-4124

United States Court of Appeals

For the Second Circuit

B
P/S

AARON KRAUT and IRIS KRAUT,
HARRY KRAUT and MARIAN KRAUT,
Petitioners-Appellants,

against

COMMISSIONER OF INTERNAL REVENUE,
Respondent-Appellee.

JOINT APPENDIX

O. JOHN ROGGE
777 Third Avenue
New York, New York 10017
(212) 421-6400

SIDNEY N. SOLOMON
3000 Marcus Avenue
Lake Success, New York 11040
(516) 437-6443

Attorneys for Petitioners-Appellants

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Ass't Attorney General
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Washington, D.C. 20530

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Chief Counsel
Internal Revenue Service
Washington, D.C. 20530

Attorneys for Respondent-Appellee

UNITED STATES COURT OF APPEALS
FILED
AUG 4 1975
A. DANIEL FUSARO, CLERK
SECOND CIRCUIT

PAGINATION AS IN ORIGINAL COPY

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Docket Entries Re: No. 7663-70

UNITED STATES TAX COURT

GENERAL DOCKET

JA 1

ONLY COPY AVAILABLE

DOCKET NO. 7663-70

ARON KRAUT and IRIS KRAUT	APPEARANCES FOR PETITIONER: 516-487-[illegible]
0047 Greentree Drive	SIDNEY N. SOLOMON
Bayside, New York 11572	NAME (Eisenberg & Solomon) 3000 Marcus Ave Lake Success, N.Y. 11040
PETITIONER,	ADDRESS Fredric Scheinfeld (same add., 12/4/73)
vs.	O. John Rogge, 777 Third Ave., New York, N.Y. 10017
MISSIONER OF INTERNAL REVENUE,	T/A 1/14/74.
RESPONDENT.	

Date Month	Day	Year	Filings and Proceedings	Action	Served
	16,	1970	PETITION FILED: FEE PAID DEC 16 1970		Dec. 28, 1970
	25,	1971	ANSWER filed by Resp		Feb 26, 1971
	26,	1971	REQUEST by Resp for trial at NYC, NY filed	GRANTED Feb. 26, 1971	Feb 26, 1971
	25,	1972	NOTICE OF TRIAL on Dec. 11, 1972 at New York, N.Y.		Sept. 25, 1972
	11,	1972	HEARING at New York, N.Y. before Judge Sterrett.		
			Joint oral motion for continuance: Granted. See order.		
	11,	1972	ORDER, that parties joint oral motion for continuance		Jan. [illegible], 1973
			is granted and case is continued for trial in due course.		
	12,	1973	TRANSCRIPT of Dec. 11, 1972 rec'd.		
	10,	1973	NOTICE OF SETTING CASE FOR TRIAL at NY, NY, Nov. 5, 1973		Aug. 10, 1973
	12,	1973	TRIAL at New York, N.Y. before Judge Raum.		
			Stanley J. Goldberg and Walter C. Welsh		
			recognized for petrs at Trial.		
			Stipulation of facts with att. Exh. filed.		
			Exhs. following stipulation of facts do not		
			follow the usual sequence: (Judge Raum was		
			informed of this in New York, City)		
			Resp's Motion to consolidate cases for trial		Nov. 12, 1973
			Briefing etc. - Granted (served)		
			Received appearance of Fredric Scheinfeld for		

Form No. 34

7663-70

DOCKET NO. _____ JA 2

(Continuation)

AARON KRAUT AND IRIS KRAUT , PETITIONER

Date (Month Day Year)	Filings and Proceedings	Action	Served
inutes cont. Nov. 12, 1973	(withheld) petrs --/(subject to enrollment)		
	ORIGINAL BRIEFS DUE - Dec. 27,1973		
	REPLY BRIEFS DUE - Jan. 28,1974		
	SUBMITTED TO JUDGE RAUM		
ov. 27, 1973	TRANSCRIPT of Nov. 12, 1973 rec'd.		
Dec. 4, 1973	ENTRY OF APPEARANCE by Fredric Scheinfeld for petr.		Jan. 7, 1974
	filed.		
Dec. 26, 1973	MOTION by Petr. to extend time to January 11, 1974 &		
	Feb. 12, 1974 within which to submit opening Briefs &		
	Reply Briefs.	GRANTED Dec. 27, 1973	DEC 28 1973
Jan. 11, 1974	BRIEF for Respondent filed.		Jan. 14, 1974
Jan. 14, 1974	BRIEF for Petitioner filed. (Permission to File)		JAN 14 1974
Jan. 14, 1974	ENTRY OF APPEARANCE by O. John Rogge as counsel for		JAN 25,1974
	petr. filed.		
Feb. 11, 1974	PETITIONER'S REPLY BRIEF filed.		FEB 12 1974
Feb.11,1974	REPLY BRIEF for Resp. filed.		FEB 12 1974
Mar. 19, 1974	MOTION for oral argument filed by Petr.		
Mar. 19, 1974	ORDER that the motion for oral argument filed this date		MAR 20 1974
	is granted and this case is calendared for oral		
	argument on March 28, 1974 at Washington, D.C..		
Mar. 28, 1974	HEARING at Washington, D.C. befoer Judge Raum		
	Oral Argument.		
April 11,1974	TRANSCRIPT of Mar. 28, 1974 rec'd.		
June 27, 1974	FINDINGS OF FACT AND OPINION filed, Judge Raum.		JUN 27 1974
	(Decision will be entered under Rule 155)		
July 25, 1974	MOTION by Resp. for leave to file Amendment To Answer.		
	(Amendment to Answer Lodged)	DENIED July 26,1974	JUL 29 1974

(Continued on page 3)

GPO 892-07

UNITED STATES TAX COURT

GENERAL DOCKET

JA 3

DOCKET NO. 7663-70

(Continuation)

AARON KRAUT AND IRIS KRAUT — PETITIONER — PAGE 3

Date (Month Day Year)	Filings and Proceedings	Action	Served
Oct. 4, 1974	RESPONDENT'S COMPUTATION filed. Ltr.		OCT 8 1974
Oct. 8, 1974	NOTICE of filing Resp's. Computation under Rule 155 and hearing on Nov. 6, 1974 at Wash., D.C. (Objection due 5 days prior to hearing date)		OCT 8 1974
Oct. 18, 1974	Petr.'s Computation filed. Ltr		OCT 18 1974
Oct. 18, 1974	NOTICE of filing of Petr. computation under Rule 155 and hearing on Nov. 6, 1974 at Washington, D.C. (Objection due 5 days prior to hearing)		OCT 18 1974
Oct. 25, 1974	AMENDED COMPUTATION filed by Petr.		DEC 2 1974
Oct. 30, 1974	MOTION by Resp. to continue hearing on Rule 155 Computations to Motions Session In Wash., D.C. on Dec. 4, 1974. (No Obj. Petr.)	GRANTED Oct. 31, 1974	NOV 1 1974
Nov. 8, 1974	NOTICE OF CHANGE OF COURTROOM & ADDRESS FOR SESSION at Washington, D.C.		Nov. 8, 197
Nov. 26, 1974	NOTICE of Objection to Petr. Computation for Entry under Rule 155 filed by Resp.		NOV 27 1974
Dec. 3, 1974	ORDER, that the aforesaid informal request of Resp. is granted and these cases are stricken from the calendar on Dec. 4, 1974 at Washington, D.C. And further, ORDER, that these cases are calendared for hearing under Rule 155 on Jan. 15, 1975 at Washington, D.C.		DEC 4 1974

(Continued to page 4)

GPO: 1973—O-496-976

UNITED STATES TAX COURT JA 4

GENERAL DOCKET

KET NO. 7663-70

(Continuation)

AARON KRAUT AND IRIS KRAUT — PETITIONER — PAGE 4

Date (Month Day Year)	Filings and Proceedings	Action	Served
c.23,1974	NOTICE OF CHANGE OF COURTROOM AND ADDRESS for Jan. 15, 1975 Motion Session.		Dec. 23,1974
. 13, 1975	ORDER, that parties informal request is granted and case is stricken from Motions Session on Jan. 15, 1975 at Wash., D.C. It is further ORDERED, that case is calendared for hearing under Rule 155 at Motions Session on Jan. 29, 1975 at Wash., D.C.		JAN 15 1975
n. 24, 1975	MOTION by Resp. to extend time to Feb. 26, 1975 within which to file Rule 155 Computations. (No Obj. Petr.)	GRANTED Jan. 28,1975	JAN 30 [illegible]5
b. 19, 1975	AGREED COMPUTATION filed.		
.21,1975	DECISION ENTERED, Judge Raum.		Feb.21,1975
	APPELLATE PROCEEDINGS		
y 19, 1975	Surety bond in the amount of $481,574.16, with Fidelity and Deposit Company of Maryland, as surety, approved and ordered filed.		
y 19, 1975	NOTICE OF APPEAL to U.S.C.A., 2nd Cir., filed by Petrs.		May 20, 1975
y 20, 1975	NOTICE of Filing with copy of notice of appeal sent to Mr. Meade Whitaker, Chief Counsel.		May 20, 1975
y 20, 1975	NOTICE, to parties, of assembling and date for transmission of the record.		May 20, 1975

Form No. 34A
March 1957

Docket Entries Re: No. 7664-70

UNITED STATES TAX COURT

GENERAL DOCKET

JA 5

DOCKET NO. 7664-70

RRY KRAUT and MARIAN KRAUT

-07 Fresh Meadow Lane

ushing, New York 11365 PETITIONER,

. VS.

MMISSIONER OF INTERNAL REVENUE, RESPONDENT.

APPEARANCES FOR PETITIONER:

NAME Sidney N. Solomon, (Eisenberg & Solomon), 3000 Marcus

ADDRESS Avenue, Lake Success, N.Y., 11040

Fredric Scheinfeld (same add., 12/4/73)

O.JOhn Rogge, 777 Third Ave., New York, N.Y. 10 E/A 1/14/74.

Date Month Day Year	Filings and Proceedings	Action	Served
c. 16, 1970	PETITION FILED: FEE PAID DEC 1 6 1970		Dec. 28, 197
25,1971	ANSWER Filed by Resp		Feb. 26, 1971
25,1971	REQUEST by Resp for trial at NYC, NY filed	GRANTED Feb. 26,1971	Feb 26,1971
pt. 25. 1972	NOTICE OF TRIAL on Dec. 11, 1972 at New York, N.Y.		Sept. 25, 197
c. 11,1972	HEARING at New York, N.Y. before Judge Sterrett.		
	Joint oral motion for continuance: Granted.See order.		
c. 11,1972	ORDER, that parties joint oral motion for continuance		Jan. 11,1973
	is granted and case is continued for trial in due		
	course.		
r. 19, 1973	TRANSCRIPT of Dec. 11, 1972 rec'd.		
. 10, 1973	NOTICE OF SETTING CASE FOR TRIAL, NY, NY, Nov. 5, 1973		Aug. 10, 1973
v. 12,1973	TRIAL at New York, N.Y. before Judge Raum.		
	Stanley J. Goldberg and Walter C. Welsh		
	recognized for petrs at Trial.		
	Stipulation of facts with att. Exh. filed.		
	Exhs. following stipulation of facts do not		
	follow the usual sequence: (Judge Raum was		
	nformed of this in New York City, N.Y)		
	Resp's motion to consolidate cases for trial		Nov. 12,1973
	Briefing etc. Granted (served)		

DOCKET NO. 7664-70 ONLY COPY AVAILABLE JA 6

(Continuation)

HARRY KRAUT AND MARIAN KRAUT — PETITIONER — PAGE 2

Date (Month Day Year)	Filings and Proceedings	Action	Served
	Received appearance of Fredric Scheinfeld for		
	petrs (withheld) subject to enrollment.		
	ORIGINAL BRIEFS DUE - Dec. 27,1973		
	REPLY BRIEFS DUE - Jan. 28,1974		
	SUBMITTED TO JUDGE RAUM		
Nov. 27, 1973	TRANSCRIPT of Nov. 12, 1973 rec'd.		
Dec. 4, 1973	ENTRY OF APPEARANCE by Fredric Scheinfeld for petr.		Jan. 7, 1974
	filed.		
Dec. 26, 1973	MOTION by Petr. to extend time to January 11, 1974 &		
	Feb. 12, 1974 within which to submit opening Briefs &		
	Reply Briefs.	GRANTED Dec. 27, 1973	DEC 28 1973
Jan. 11, 1974	BRIEF for Respondent filed.		Jan. 14, 1974
Jan. 14, 1974	BRIEF for Petitioner filed. (Permission to file)		JAN 14 1974
Jan. 14, 1974	ENTRY OF APPEARANCE by O.John Rogge as counsel for		Jan. 25 1974
	petr. filed.		
Feb. 11, 1974	PETITIONER'S REPLY BRIEF filed.		Feb. 12, 1974
Feb.11,1974	REPLY BRIEF for Resp. filed.		FEB 12 1974
Mar. 19, 1974	MOTION for oral argument filed by Petr.		
Mar. 19, 1974	ORDER that the motion for oral argument filed this date		MAR 20 1974
	is granted and this case is calendared for oral		
	argument on March 28, 1974 at Washington, D.C..		
Mar. 28, 1974	HEARING at Washington, D.C. before Judge Raum.		
	Oral Argument.		
April 11, 1974	TRANSCRIPT of Mar. 28, 1974 rec'd.		
June 27, 1974	FINDINGS OF FACT AND OPINION filed, Judge Raum.		JUN 27 1974
	(Decision will be entered under Rule 155)		
	(continued to page 3)		

UNITED STATES TAX COURT JA 7

GENERAL DOCKET

CKET NO. 7664-70

(*Continuation*)

HARRY KRAUT AND MARIAN KRAUT — PETITIONER — PAGE 3

Date (Month Day Year)	Filings and Proceedings	Action	Served
ly 25, 1974	MOTION by Resp. for leave to file Amendment to Answer.		
	(Amendment to Answer Lodged)	DENIED July 26, 1974	JUL 29 1974
t. 4, 1974	RESPONDENT'S COMPUTATION filed.		OCT 8 1974
t. 8, 1974	NOTICE OF FILING Resp's. computation under Rule 155		OCT 8 1974
	and hearing on Nov. 6, 1974 at Wash., D.C.		
	(Objection due 5 days prior to hearing date)		
t.18,1974	Petr.'s Computation filed.		OCT 18 1974
t. 18,1974	NOTICE Of filing of Petr. computation under		OCT 18 1974
	Rule 155 and hearing on Nov. 6,1974 at		
	Washington, D.C. (Objection due 5 days prior	to hearing)	
c. 25,1974	AMENDED COMPUTATION filed by Petr.		DEC 2 1974
. 30, 1974	MOTION by Resp. to continue hearing on Rule 155 Compu-		
	tations to December 4, 1974 at Wash., D.C. motions		
	session. (No Obj. Petr.)	GRANTED Oct. 31, 1974	NOV 1 1974
v. 8, 1974	NOTICE OF CHANGE OF COURTROOM & ADDRESS FOR SESSION		
	at Washington, D.C.		Nov. 8,1974
v. 26, 1974	NOTICE of Objection to Petr. Computation for Entry		NOV 27 1974
	under Rule 155., filed by Resp.		
c. 3,1974	ORDER, that the aforesaid informal request of		DEC 4 1974
	Resp. is granted and these cases are stricken		
	from the calendar on Dec. 4,1974 at Washington, D.C.		
	And further,		
	ORDER, that these cases are calendared for		
	hearing under Rule 155 on Jan. 15,1975 at Wash., D.C.		

(Continued on page 4)

GPO : 1973—O-495 979

UNITED STATES TAX COURT JA 8

GENERAL DOCKET

CKET NO. 7664 - 70

(*Continuation*)

HARRY KRAUT AND MARIAN KRAUT — PETITIONER — PAGE 4

Date (Month Day Year)	Filings and Proceedings	Action	Served
ec. 23,1974	NOTICE OF CHANGE OF COURTROOM AND ADDRESS for Jan. 15, 1975 Motion Session.		Dec. 23,197
n. 13, 1975	ORDER, that parties informal request is granted and case is stricken from Motions Session on Jan. 15, 1975 at Wash., D.C. It is further ORDERED, that case is calendared for hearing under Rule 155 at Motions Session on Jan. 29, 1975 at Wash., D.C.		JAN 15 1975
n. 24, 1975	MOTION by Resp. to extend time to Feb. 26, 1975 within which to file Rule 155 Computations. (No Obj. Petr.)	GRANTED Jan. 28, 1975	JAN 30 1975
b. 19, 1975	AGREED COMPUTATION filed.		
b.21,1975	DECISION ENTERED, Judge Raum.		Feb.21,1975
	APPELLATE PROCEEDINGS		
y 21, 1975	Surety bond in the amount of $493,694.88, with Fidelity and Deposit Company of Maryland, as surety, approved and ordered filed.		
21, 1975	NOTICE OF APPEAL to U.S.C.A., 2nd Cir., filed by Petrs.		May 22, 1975
y 22, 1975	NOTICE of Filing with copy of notice of appeal sent to Mr. Meade Whitaker, Chief Counsel.		May 22, 1975
y 22, 1975	NOTICE, to parties, of assembling and date for transmission of record.		May 22, 1975

JA 9

Petition Re: No. 7663-70

FILED

1970 DEC 16 AM 10 30

TAX COURT

TAX COURT OF THE UNITED STATES

AARON KRAUT and IRIS KRAUT,	)	
	)	
Petitioners,	)	
	)	
v.	)	Docket No.
	)	
COMMISSIONER OF INTERNAL REVENUE,	)	
	)	
Respondent	)	7663-70

PETITION

The above named petitioners hereby petition for a redetermination of the deficiency set forth by the Commissioner of Internal Revenue in his notice of deficiency (bearing symbols AP:NY:WF:BP) dated October 9, 1970, and, as a basis of this proceeding, alleges as follows:

1. The petitioners are husband and wife with legal residence at 4047 Greentree Drive, Oceanside, New York 11572, the return for the period here involved was filed with the District Director of Internal Revenue, Brooklyn, New York.

2. The notice of deficiency, a copy of which is attached hereto and marked Exhibit "A", was mailed to the petitioners on October 9, 1970.

3. The deficiency as determined by the Commissioner is in income taxes for the calendar year 1967 in the amount of $254,437.12 of which amount $254,218.87 is in dispute.

4. The determination of tax set forth in the said notice of deficiency is based upon the following errors:

(a) In determining the taxable income of the petitioner, Iris Kraut, for the year 1967 the Commissioner erroneously deemed that collections in the sum of $595,776.09, received by the petitioner in 1967 pursuant to the sale of her shares of stock in Nassau Plastics & Wire Corp. to the Cathedral of Tomorrow, Inc., in 1966, to be ordinary income.

5. The facts upon which the petitioner relies as the basis of this case are as follows:

Petitioner, Iris Kraut, owned 100 shares of common stock of Nassau Plastics & Wire Corp., which she acquired upon organization of that corporation in 1965. In July 1966 the petitioner sold her shares to the Cathedral of Tomorrow, Inc., at an agreed price of $1,750,000 payable over ten (10) years. The Commissioner has erroneously held that the gain derived from that transaction in the year 1967 was ordinary income and not long term capital gains, when in fact the property sold was a capital asset as defined in Section 1221 of the I.R.C. and the gain was a long term capital gain as defined in Section 1222 (3) of the I.R.C.

Wherefore, the petitioners pray that this Court may hear the case and determine that the deficiency due from the petitioner for the year 1967 should not be in excess of $218.25.

Counsel for Petitioners

ADMITTED TO TAX COURT

SIDNEY N. SOLOMON
EISENBERG & SOLOMON
3000 Marcus Avenue
Lake Success, New York, 11040

STATE OF NEW YORK)
) ss.:
COUNTY OF NASSAU)

AARON KRAUT and IRIS KRAUT, being duly sworn, say that they are the petitioners above named, that they have read the foregoing petition, or had the same read to them, and are familiar with the statements contained therein, and that the statements contained therein are true, except those stated to be upon information and belief, and that those they believe to be true.

AARON KRAUT

IRIS KRAUT

Subscribed and sworn to before me this 14 day of December, 1970.

Notary

JOHN R. SERPICO
Notary Public, State of New York
No. 24-3598170, Qual. in Kings County
Commission Expires March 30, 1971

(Seal)

Answer ORIGINAL

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UNITED STATES TAX COURT

JA 12

AARON KRAUT and IRIS KRAUT,)
)
Petitioners,)
)
v.) Docket No. 7663-70
)
COMMISSIONER OF INTERNAL REVENUE,)
)
Respondent.)

DOCKET ROOM
1971 FEB 25 PM 4 44
FILED
1971 FEB 25 PM 4 45

ANSWER

THE RESPONDENT, in answer to the petition filed in the above-entitled case, admits, denies and alleges as follows:

1. Denies the allegations of paragraph 1 of the petition, except it is admitted that the return for the period herein involved was filed with the District Director, Brooklyn District, New York; alleges that the address of the petitioners as last known to the respondent was 315 Virginia Avenue, Oceanside, New York; further alleges that the petitioners' present address as alleged in their petition was their legal address on the date they filed their petition with this Court.

2. Admits the allegations of paragraph 2 of the petition, except it is denied that a copy of the statutory notice of deficiency is attached to the petition; alleges that respondent has attached to this answer a copy of the said statutory notice of deficiency.

3. Denies the allegations of paragraph 3 of the petition; alleges that the deficiency determined by the respondent is in

SERVED FEB 25

income tax for the taxable year 1967 in the amount of $254,437.12; further alleges that the petitioners are not contesting the entire amount of the deficiency.

4. (a) Denies the respondent erred as alleged in subparagraph (a) of paragraph 4 of the petition.

5. Admits that the petitioner Iris Kraut was a shareholder in Nassau Plastics & Wire Corp.; denies the remaining mixed allegations of error and fact of paragraph 5 of the petition.

6. Denies generally each and every allegation of the petition not hereinbefore specifically admitted, qualified or denied.

WHEREFORE, it is prayed that the deficiency determined by the respondent be in all respects approved.

R. MARTIN WORTHY,
Chief Counsel,
Internal Revenue Service.

OF COUNSEL:

MARVIN E. HAGEN,
Regional Counsel,
JOHN B. MURRAY, JR.,
Attorney,
Internal Revenue Service,
26 Federal Plaza, 12th Floor,
New York, New York 10007

JA 14

Petition Re: No. 7664-70

FILED

1970 DEC 10 AM 10 30

UNITED STATES
TAX COURT

7664-70

TAX COURT OF THE UNITED STATES

HARRY KRAUT and MARIAN KRAUT,	)	
	)	
Petitioners,	)	
	)	
v.	)	Docket No.
	)	
COMMISSIONER OF INTERNAL REVENUE,	)	
	)	
Respondent	)	

PETITION

The above named petitioners hereby petition for a redetermination of the deficiency set forth by the Commissioner of Internal Revenue in his notice of deficiency (bearing symbols AP:NY:WF:BP) dated October 9, 1970, and, as a basis of this proceeding, alleges as follows:

1. The petitioners are husband and wife with legal residence at 56-07 Fresh Meadow Lane, Flushing, New York, 11365, the return for the period here involved was filed with the District Director of Internal Revenue, Brooklyn, New York.

2. The notice of deficiency, a copy of which is attached hereto and marked Exhibit "A", was mailed to the petitioners on October 9, 1970.

3. The deficiency as determined by the Commissioner is in income taxes for the calendar year 1967 in the amount of $258,544.82 of which amount $258,314.27 is in dispute.

4. The determination of tax set forth in the said notice of deficiency is based upon the following errors:

(a) In determining the taxable income of the petitioner, Marion Kraut, for the year 1967 the Commissioner erroneously deemed that collections in the sum of $595,776.09, received by the petitioner in 1967 pursuant to the sale of her shares of stock in Nassau Plastics & Wire Corp. to the Cathedral of Tomorrow, Inc., in 1966, to be ordinary income.

5. The facts upon which the petitioner relies as the basis of this case are as follows:

Petitioner, Marian Kraut, owned 100 shares of common stock of Nassau Plastics & Wire Corp., which she acquired upon organization of that corporation in 1965. In July 1966 the petitioner sold her shares to the Cathedral of Tomorrow, Inc., at an agreed price of $1,750,000 payable over ten (10) years. The Commissioner has erroneously held that the gain derived from that transaction in the year 1967 was ordinary income and not long term capital gains, when in fact the property sold was a capital asset as defined in Section 1221 of the I.R.C. and the gain was a long term capital gain as defined in Section 1222 (3) of the I.R.C.

Wherefore, the petitioners pray that this Court may hear the case and determine that the deficiency due from the petitioner for the year 1967 should not be in excess of $230.55.

Counsel for Petitioners

SIDNEY N. SOLOMON
EISENBERG & SOLOMON
3000 Marcus Avenue
Lake Success, N. Y., 11040

STATE OF NEW YORK)
) ss.:
COUNTY OF NASSAU)

HARRY KRAUT and MARIAN KRAUT, being duly sworn, say that they are the petitioners above named, that they have read the foregoing petition, or had the same read to them, and are familiar with the statements contained therein, and that the statements contained therein are true, except those stated to be upon information and belief, and that those they believe to be true.

Harry Kraut
HARRY KRAUT

Marian Kraut
MARIAN KRAUT

Subscribed and sworn to before me this 17 day of December, 1970.

John R. Serpico
Notary

JOHN R. SERPICO
Notary Public, State of New York
No. 24-3598170, Qual. in Kings County
Commission Expires March 30, 1971

(Seal)

ORIGINAL

Answer

UNITED STATES TAX COURT

JA 17

HARRY KRAUT and MARIAN KRAUT,

Petitioners,

v

COMMISSIONER OF INTERNAL REVENUE,

Respondent.

DOCKET ROOM

FILED

1971 FEB 25 PM 4 44

1971 FEB 25 PM 4 45

Docket No. 7664-70

ANSWER

THE RESPONDENT, in answer to the petition filed in the above-entitled case, admits, denies and alleges as follows:

1. Denies the allegations of paragraph 1 of the petition, except it is admitted that the return for the period herein involved was filed with the District Director, Brooklyn District, New York; alleges that the address of the petitioners as last known to the respondent was 56-07 Fresh Meadow Lane, Flushing, New York; further alleges that the petitioners' present address as alleged in their petition was their legal address on the date they filed their petition with this Court.

2. Admits the allegations of paragraph 2 of the petition, except it is denied that a copy of the statutory notice of deficiency is attached to the petition; alleges that respondent has attached to this answer a copy of the said statutory notice of deficiency.

3. Denies the allegations of paragraph 3 of the petition; alleges that the deficiency determined by the respondent is in

ONLY COPY AVAILABLE

income tax for the taxable year 1967 in the amount of $258,544.82; further alleges that the petitioners are not contesting the entire amount of the deficiency.

4. (a) Denies the respondent erred as alleged in subparagraph (a) of paragraph 4 of the petition.

5. Admits that the petitioner Marian Kraut was a shareholder in Nassau Plastics & Wire Corp.; denies the remaining mixed allegations of error and fact of paragraph 5 of the petition.

6. Denies generally each and every allegation of the petition not hereinbefore specifically admitted, qualified or denied.

WHEREFORE, it is prayed that the deficiency determined by the respondent be in all respects approved.

K. MARTIN WORTHY,
Chief Counsel,
Internal Revenue Service.

OF COUNSEL:

MARVIN E. HAGEN,
Regional Counsel,
JOHN B. MURRAY, JR.,
Attorney,
Internal Revenue Service,
26 Federal Plaza, 12th Floor,
New York, New York 10007

U. S. TAX COURT
FILED AT
NEW YORK CITY
NOV 12 1973
DOCKET

UNITED STATES TAX COURT

AARON and IRIS KRAUT, Petitioner,	)	
v.	)	Docket No. 7663-70
COMMISSIONER OF INTERNAL REVENUE, Respondent.	)	
HARRY and MARIAN KRAUT, Petitioner,	)	
v.	)	Docket No. 7664-70
COMMISSIONER OF INTERNAL REVENUE, Respondent.	)	

U. S. TAX COURT
GRANTED
JUDGE

MOTION TO CONSOLIDATE

THE RESPONDENT MOVES that the Court consolidate the above-entitled cases for the purpose of the trial, briefing and opinion.

IN SUPPORT THEREOF, the respondent respectfully shows unto the Court:

1. The above-entitled cases are set for trial at the November 5, 1973 session of the Tax Court in New York, New York.

2. The principal issues are substantially the same in each of the above-entitled cases, which will necessitate that the same evidence be introduced in each case. The principal

Served
Nov. 12, 1973
A. B. A.

issue in each case concerns the question of whether certain amounts received from the Cathedral of Tomorrow, Inc. in 1967 should be treated as ordinary income or capital gains.

3. The time of the Court and of the parties will be materially conserved by the consolidation of these cases.

WHEREFORE, it is prayed that this motion be granted.

MEADE WHITAKER,
Chief Counsel,
Internal Revenue Service.

OF COUNSEL:

MARVIN E. HAGEN,
Regional Counsel,
STANLEY J. GOLDBERG,
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New York, New York 10007.

Transcript of Testimony

JA 21

UNITED STATES TAX COURT

AARON KRAUT, ET AL.

Petitioner

vs

COMMISSIONER OF INTERNAL REVENUE

Respondent

Docket No. 7663-70
7664-70

LOCATION OF HEARING: THE UNITED STATES TAX COURT
NEW YORK, NEW YORK

DATE: November 12, 1973

BEFORE: THE HONORABLE ARNOLD RAUM

APPEARANCES: SIDNEY N. SOLOMON
FREDRIC SCHEINFELD
for the Petitioners

STANLEY GOLDBERG
WALTER C. WELSH
for the Respondent

P R O C E E D I N G S

THE CLERK: Docket number 7663-70 and 7664-70, Aaron Kraut and Iris Kraut and related petitioners.

Gentlemen, for the record may we have your appearances, please.

MR. SOLOMON: Sidney N. Solomon for the Petitioners.

MR. SCHEINFELD: Fredric Scheinfeld for the Petitioners.

MR. GOLDBERG: Stanley Goldberg for the Respondent.

MR. WELSH: Walter C. Welsh for the Respondent.

THE COURT: Proceed, gentlemen.

MR. SOLOMON: Your HOnor, the sole issue in this case is whether a portion of sums collected by the Petitioners in the year 1967 in accordance with the agreement of sale for the sale of their shares in Nassau -- their capital stock in Nassau Plastics and Wire Corp. to the Cathederal of Tomorrow said sale being closed in 1966 constitutes ordinary income or capital gains to the Petitioners in the year 1967.

It is the Petitioner's position that all amounts received in payment of the selling price of the aforementioned shares of capital stock are the proceeds from the sale of the capital asset held for more than six months,

prior to such sale, and are determined to be long-term capital gains.

On June 25th, 1966 the Petitioners Iris Kraut and Marion Kraut transferred 100 percent of all the issued and outstanding shares of capital stock of Nassau Plastics and Wire Corp. to the Cathederal of Tomorrow for a total selling price of $3,500,000.00 in accordance with an agreement of sale.

The Petitioners received $147,500.00 in the year 1966, as a partial payment of the selling price from the Cathederal of Tomorrow. After for a deduction of expense of sale, and the allocation of interest income, the combined net amount of $138,662.50, or $69,331.25 for each Petitioner was reported on their respective 1966 United States Income Tax Return as a long term capital gain in accordance with the installment method.

On December --

THE COURT: Will -- will the materials before the Court show what the Petitioner's basis was in these shares?

MR. SOLOMON: Yes, sir, they will, by a witness we expect to show the Court the holding period.

THE COURT: And, what -- what costs do you expect to establish?

MR. SOLOMON: $100,000.00.

THE COURT: For the 100 percent of the stock?

MR. SOLOMON: Yes, sir.

THE COURT: Proceed.

MR. SOLOMON: On December 4th, 1968, Harold Seltzer, Chief of the Appellate Branch of New York, in accordance with a revenue agent's report, dated July 17th, 1968 prepared Form 870 in order to close the case for the year 1966 for each Petitioner, subject to the approval of the Commissioner of Internal Revenue.

On January 31st, 1969 the Internal Revenue Service assessed the deficiencies against each Petitioner with respect to the aforementioned revenue agent's report, in a sum as was determined by the revenue agent's report.

It was therefore determined by the Respondent for the year 1966 -- that was the year of the sale, that the Petitioners properly reported the proceeds of collection from the aforementioned sale as a long-term capital gain.

During the year 1967, the Petitioners received further payments from the Cathederal of Tomorrow, in the amount of $1,332,500.00, as a further partial payment of the sales price from the 1966 sale to the Cathederal of Tomorrow, of the Nassau Plastics and Wire Corp. capital stock.

After a deduction for the expense of sale, and

the allocation of interest income, the combined net amount of $1,212,833.34 or $606,416.77 for each Petitioner was reported on their respective 1967 United States Income Tax Returns as a long-term capital gain under the installment method.

The Respondent's letter, dated October 9th, 1970 including the statutory notice statement, determined that the amounts collected in 1967 in accordance with the sale of the Petitioner's shares, that $10,640.69 for each Petitioner was a long-term capital gain, and the balance was treated by that notice as ordinary income.

THE COURT: Will the evidence show what business this corporation was engaged in?

MR. SOLOMON: Yes, sir. It will.

THE COURT: Will it show when the corporation was organized?

MR. SOLOMON: It will, Your Honor. Oh, by testimony, I don't know whether we have any documents in evidence, with respect to the organization of the corporation because in all deference when the sale was made, the -- the corporate outfit, the capital stock, everything that went with that corporation was transferred to the buyer, and the Petitioners don't have any control over that right now. We are going to try to show by testimony when it was --

THE COURT: What -- what year was the business commenced?

MR. SOLOMON: In 1965, the summer of 1965.

THE COURT: That was about a year before the so-called sale?

MR. SOLOMON: That's true, Your Honor.

THE COURT: And, was the business organized by these Petitioners?

MR. SOLOMON: Yes, sir.

THE COURT: Was there any predecessor business prior to this organization that was the -- that antedated the creation of this business?

MR. SOLOMON: Not to my knowledge, there was no --

THE COURT: What -- what was the business?

MR. SOLOMON: It manufactured Christmas wire. It manufactured the type of wire that was used in the Christmas season for Christmas lights. I'm not a technician, but that's what it did.

THE COURT: Will the evidence show the magnitude of this business, its gross sales, its gross income, its net income, prior to the organization of the corporation, and then secondly after the point of the so-called sale?

MR. SOLOMON: I think that the evidence will show either by documents or testimony the significance of

this business, and maybe the valuation --

THE COURT: My inquiry goes to its gross receipts, its net receipts, its net income.

MR. SOLOMON: We have stipulated, Your HOnor, with respect to the initial year of this company as to the inclusion of its United States income tax return. I don't know what else we could say about it, except to -- to try to interpret that particular set of numbers through testimony.

THE COURT: I'm merely trying to inquire at this point as to what you expect the evidence to show?

MR. SOLOMON: I expect the evidence to show, Your Honor, that an embryotic business was started, with a tremendous --

THE COURT: Potential?

MR. SOLOMON: Potential, and a thrust to do it, and the momentum to do it, and the actuality of doing it. I mean that's what happened here.

THE COURT: How -- how many employees did it have?

MR. SOLOMON: Originally, it started out with -- ah -- there may have been some people working but there was no payroll, until some future time when I think it had seven or eight or nine employees, I'm not sure.

THE COURT: Was that future time -- when was that

future time in respect to the so-called,date of the so-called sale?

MR. SOLOMON: It was probably right around that time, Your Honor, maybe a little before, or just about that time.

THE COURT: Now, I note from the materials that are already before the Court that the owners of the stock were the wives of the two male Petitioners?

MR. SOLOMON: Yes, sir.

THE COURT: Were the male Petitioners the persons who were active in this business rather than the wives?

MR. SOLOMON: Yes -- yes, they were.

THE COURT: Go ahead.

MR. SOLOMON: The Respondent -- it appears to -- to the Petitioners that the Respondent in 1966 admits that there was a sale of capital assets, and that the gain resulting from the sale was treated as a long-term capital gain.

The Respondent further admits that the sale -- that the collections in 1967 were -- were given capital gain treatment as to the proceeds collected in 1967 from the sale of the shares of stock in Nassau Plastics and Wire.

This was -- this sale was consumated in 1966, it was reported on the United States income tax returns of 1966 and 1967, as an installment sale, and what we are dis-

cussing here today are the collections -- the proceeds of collection of that installment sale in the year 1967.

All of the foregoing statements and facts we shall intend to endeavor to prove by documents and by testimony, Your Honor. Thank you.

MR. WELSH: Your Honor, first I would like to take care of a matter -- a procedural matter, these cases have not yet been consolidated for trial although they are -- the issues are substantially the same in the two cases, and the Respondent now has a motion to consolidate which we would like to submit.

THE COURT: The motion will be granted.

MR. WELSH: This case involves the year 1967, and concerns deficiencies in income tax as follows for the Petitioners Aaron and Iris Kraut, there is a deficiency in the amount of $254,437.12, and for the Petitioners Harry and Marion Kraut, there is a deficiency in the amount of $258,540.82. The deficiencies are based in small part on adjustments to the Petitioner's deductions for contributions and sales tax in the year 1967, and these adjustments are not now being contested by the Petitioners.

The principal basis for the adjustments concerns the Respondent's adjustment to the amounts which the Petitioner reported as capital gains in the 1967 tax returns. SAid amounts were received by the Petitioners pursuant to a

contract whereby the Petitioners Iris Kraut and Marion Kraut transferred their shares of stock in Nassau Plastics and Wire Corporation to the Cathederal of Tomorrow, Incorporated, an exempt charitable organization. The contract provided for payments to be made to the Petitioners out of the earnings of the business at a rate of 75 percent, that's pre-tax earnings, Your HOnor.

THE COURT: Is that true also as to the initial payment?

MR. WELSH: Are you referring to the down-payment in the contract, Your Honor?

THE COURT: I will state for the record at this point that the parties have made available to me prior to today, a copy of a proposed stipulation of facts together with Exhibits, and the Exhibits included the so-called contract of sale which is involved in this case.

I refer to that portion of the contract of sale that calls for a down-payment -- well, I don't mean a down-payment, but a payment of -- rather of $50,000.00.

MR. WELSH: Well, my reading of the contract, that that was not to be paid out of earnings, but I don't know what I am not sure what the Petitioner's interpretation of that is.

THE COURT: Proceed.

MR. WELSH: As a result of this contract, the

Petitioners received the amount of $147,500.00 in 1966, and the amount of $1,332,500.00 in 1967. The Petitioners treated the amounts received in 1967 as capital gains on the tax returns.

The Respondent asserts that the amount -- that if the Court does find that there was a valid sale of stock by the Petitioners, that it was only in the amount of $168,444.00 this should be deemed applicable to the sale of stock, and any amounts in excess of this are deemed ordinary income as they are amounts which are not received pursuant to a sale.

THE COURT: Would you tell me again what portion of these amounts you regard as attributable to a sale?

MR. WELSH: OUr statutory notice sets forth the amount of $168,445.60.

THE COURT: And, what is the theory of that?

MR. WELSH: It is an attempt by the Respondent to place some value if possible on the business which was sold by the -- on the -- the business which was reportedly sold by the Petitioners, based on the evidence which was before the Respondent as to the -- which is basically the tax return which is stipulated as Exhibit 3-C.

The Respondent asserts that evidence adduced at trial today may demonstrate that the Respondent has overvalued the Petitioner's stock, and an additional amount

should have been treated as ordinary income. Such evidence may necessitate a request by the Respondent for leave to amend his pleadings to conform to the proof. Evidence may also indicate at trial, that there was no sale or exchange at all, but merely a sham transaction and all amounts received by the Petitioners pursuant to the contracts will be treated as ordinary income.

Or the Court may find that there was a sale, but it was only a sale of future earnings, and this is the classic case of assignment of income, in which case again, the Respondent would necessitate a request by the Respondent for leave to amend its pleadings to conform to the proof.

The only evidence before the Respondent, as to the business, is the tax return, which is set forth as Exhibit 3-C, which shows no fixed assets, and accounts receivable of $50,000.00, and a taxable income for one year business in the amount of approximately $16,000.00.

At this time, Your HOnor, I would like to submit the stipulation of facts, and I am including where possible originals of any documents. There are some that we do not have the originals of, and we have attempted to get as clear a copy as possible.

THE COURT: I will receive you stipulation and Exhibits. Would you state for the record the range of the Exhibits?

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MR. WELSH: Ah --

THE COURT: They run from what, 1-A through what?

MR. WELSH: Exhibits run from 1-A through 6-F, Your Honor.

(Pause.)

THE COURT: Proceed, Mr. Solomon.

MR. SOLOMON: Thank you, Your Honor. Your Honor, is it appropriate at this time to ask that the stipulation be admitted into evidence or is it already --

THE COURT: I have already received it.

MR. SOLOMON: Thank you. My first witness, Your HOnor is going to be Meyer Shapiro.

THE COURT: You may call him.

MR. SOLOMON: Meyer Shapiro.

THE CLERK: Raise your right hand, please. You do solemnly swear that the testimony you are about to give to the Court in this case, shall be the truth, the whole truth, and nothing but the truth, so help you God?

THE WITNESS: I do.

THE CLERK: Please take the stand, and for the record may we have your name?

THE WITNESS: Meyer Shapiro.

THE CLERK: How do you spell your first name?

THE WITNESS: M-e-y-e-r.

THE CLERK: How do you spell your last name?

THE WITNESS: S-h-a-p-i-r-o.

THE CLERK: And, the address?

THE WITNESS: 2155 Brown Street.

THE CLERK: What city?

THE WITNESS: Brooklyn, New York, 11229.

M E Y E R S H A P I R O, called as a witness on behalf of the Petitioners, having been duly sworn, took the stand, and testified as follows:

DIRECT EXAMINATION BY

MR. SOLOMON:

Q Mr. Shapiro, what is your present occupation?

A I do some accounting, I am retired, from the Internal Revenue Service.

Q Your former occupation before your retirement?

A That was my former occupation -- I'm an accountant right now, I do some accounting.

Q What did you do for the Internal Revenue Service?

A I was an Internal Revenue agent.

Q How long were you an Internal Revenue agent?

A Over 25 years.

Q During the time that you worked as an Internal Revenue agent, did you have occasion to examine books and records?

A Yes.

Q And legal documents?

A Yes.

Q And, did you make any decisions with respect to those books and records and legal documents as they related to tax matters for the United States Government?

A Yes, I did.

MR. SOLOMON: Do you want to mark these? I would like to mark two reports for identification.

THE COURT: The Clerk will identify them for you. Give them to him in the sequence in which you want them identified.

(Pause.)

THE CLERK: For identification, Petitioner's
** 5944 Exhibits 7 and 8.

BY MR. SOLOMON: (Resuming)

Q Mr. Shapiro, I show you these two documents, are those documents copies of audit reports?

A Yes.

Q Made by a revenue agent?

A Yes.

Q Could you tell me who the revenue agent was?

A Myself.

Q The date -- give me the date of the report -- your report?

A 7-17-68, and one is 7-15-68.

MR. SOLOMON: Let is show for the record that Harry and Marion Kraut's report was July 15th, 1968, and Aaron and Iris Kraut's report was July 17th, 1968.

BY MR. SOLOMON: (Resuming)

Q If we may --

A Just tell me the name -- I have copies of these.

Q If you will take Exhibit 7 marked for identification --

A Yes.

Q That's the report of Aaron and Iris Kraut?

A Yes.

Q You examine that 1966 and 1967 income tax return for the INternal Revenue Service?

A I did.

Q In looking at that report --

MR. GOLDBERG: Your Honor, the Respondent would like to know what year this report is for?

THE WITNESS: 1966 and 1967 --

MR. GOLDBERG: I object, YOur Honor -- I object to for Revenue Agent Shapiro testifying in regard to 1966, because that year is not before the Court, and secondly I object to the year 1967 because his report is not the basis for the issuance of the statutory notice. So, all the testimony which he is going to testify to, is totally irrelevant to this case.

MR. SOLOMON: Your Honor, this material is being introduced for the basis of the determination that the INternal Revenue Service made with respect to these Petitioners, and through the administrative procedure of this case, Mr. Shapiro's testimony is quite important as to show a continuity between his examination and the statutory notice.

THE COURT: I will -- I will state for the record that the parties had a pre-trial conference with the Court this morning, and the matter of the significance of what happened in 1966 was discussed at that conference, and I indicated then and I will now state for the record that I do not regard any decisions made by the Internal Revenue Service in 1966 or rather relating to the year 1966 as being binding or constituting any estoppel in relation to 1967. The law is well settled in that respect, but I will not deprive the Petitioner of placing these materials before the Court.

MR. GOLDBERG: Well, Your Honor, I think it is absolutely irrelevant, and it wastes the Court's time.

THE COURT: Well, you are wasting it even more by objecting. You have nothing to fear from it. Do you wish to present these reports in evidence?

MR. SOLOMON: Yes, sir.

THE COURT: Well, suppose you do, and let's get

it over with.

BY MR. SOLOMON: (Resuming)

Q Well, I would like to ask Mr. Shapiro with respect to the report that he valued the capital stock of Nassau Plastics and Wire Corp. in those reports, that was subsequently changed by the Commissioner in the statutory notice, but as a basis -- unless you want to make an objection?

MR. WELSH: Are you asking me a question?

MR. SOLOMON: No.

BY MR. SOLOMON: (Resuming)

Q Mr. Shapiro, did you value the capital stock of Nassau Plastics and Wire Corp?

A I set a value on it for the basis -- in closing.

Q How did you arrive at that value?

A Well, I don't have the papers in front of me, I just -- I just saw these things, and I have no work papers.

Q What are these things?

A These papers here, these Exhibits.

MR. WELSH: Your Honor, he is going to --

THE COURT: And, these Exhibits you are referring to are your own reports?

THE WITNESS: These are my reports.

THE COURT: Well, you didn't have them before you

before you made the report.

THE WITNESS: I beg your pardon?

THE COURT: What did -- I understood the question to be what you had before you when you arrived at your conclusion?

THE WITNESS: I probably had references to previous cases along similar lines with regard to this type of situation, regarding -- evaluating the worth of a corporation being sold, and I followed general procedures. In other words, I set a value on the worth of a corporation, based upon its earning capacity, and I notice over here, as I read these reports, which I had previous copies of, that the capital assets were given with a value, I think, $100.00. Therefore, if we attribute to the capital assets a nominal value, the total worth of the corporation is based upon its good will practically. And, I set a value on good will. That's all.

BY MR. SOLOMON: (Resuming)

Q What was the value set?

A Half a million dollars.

THE COURT: And, what was the basis of that judgment?

THE WITNESS: It probably was a multiple of their earnings. It may have been anywheres between 10 and 16 times earnings. I don't know what the earnings were.

I believe that it might have been 16 times, because I probably presumed that an asset by -- of its own nature, is worth an earning of 6 percent, and since the earnings of this corporation were a certain figure, 16 times that would give the value of the assets.

THE COURT: Is that based -- and did you determine earnings upon the basis of the corporation's return?

THE WITNESS: Yes.

THE COURT: Well, I have Exhibit 3-C -- 3-C, which is the corporation's return for the fiscal year ending JUne 30, 1966, it shows taxable income of some $15,000.00 --

THE WITNESS: I believe --

THE COURT: And, then it shows a tax of a little over $3,000.00, and as I understand the term earnings when an attempt is made to value stock, -- it is the --

THE WITNESS: Well, this --

THE COURT: It is the income after taxes and not before taxes, so if you subtract the amount of tax from the taxable income you get earnings of about $12,000.00, with a plus --

THE WITNESS: Yes, but this was --

THE COURT: With that as earnings, how did you arrive at a value of $500,000.00?

THE WITNESS: I didn't -- I didn't follow that

year. If you will look at the history of this business -- I don't want to take sides here, but I am giving you the logic of what I did. If you will look at the history of this business. It is a growing business, in the succeeding year, 1967, which I also said, their income was much greater, and I believe that if they were selling this business it would be based upon their latest income earnings situation. This -- this was the first year, which was a low income year.

THE COURT: Well, the -- the year was the -- 3-C was the taxable year ending June 30, 1966 --

THE WITNESS: Well, 1967 --

THE COURT: And, when was the sale?

THE WITNESS: It must have been in 1967, the years that I was examining was 1966 and 1967.

THE COURT: Well, now, --

MR. SOLOMON: Your Honor, if I may, --

THE COURT: Will the parties -- will counsel inform me what the year of the so-called sale was here?

MR. GOLDBERG: June 25, 1966.

THE COURT: So that the --

MR. GOLDBERG: The report -- the income tax return should show the current earnings for that year ended June 1 -- JUne 30th, 1966.

THE COURT: So -- so that the sale -- sale

then took place in June of 1966, and these -- all that anybody would have available at the time of -- for the sale, or the most that they would have available would be the earnings statement for the year which was ending at that time.

THE WITNESS: Was that the date of the actual passage of the title? I don't really know.

MR. SOLOMON: Your Honor, if I may continue, I can straighten this matter out with this witness.

THE COURT: All right, go ahead. I -- I just -- the reason for my questions indicate the doubts that I have with respect to the witness's answers, and I hope that counsel will be able to clear it up.

MR. SOLOMON: Well, what I am trying to show, Your HOnor, by this witness, is that at the time that he did the examination of this -- of these particular taxpayers, that he was a revenue agent with 25 years experience -- a little less of experience, and he's making a determination that is in writing, and the only reason that I submit it is that so I can refresh his recollection,and to see that he did it. But he has made statements in the report that I would like to discuss with the witness, if I may.

MR. WELSH: Escuse me, we -- Your Honor, we don't have a copy of that report, and if he is going to testify in regard to it, I would like a copy.

THE WITNESS: This is not the administrative

copy, this is just a copy -- I would like to see the administrative copy if I am going to testify.

THE COURT: I don't know what the term administrative copy means, what is --

THE WITNESS: Well, it is -- it is report that I submit to the Government which the taxpayer doesn't get. It states what I did, with my background -- my attitude towards the case. It is a private report.

THE COURT: Now, the report -- that -- the copies that you have before you, namely Exhibits 7 and 8, are the copies of the report that were furnished to the taxpayers?

THE WITNESS: That's right. There is a supplementary report which I submit to the Government which only they see. They must have that, which includes thie report.

MR. SOLOMON: May I continue, Your Honor?

THE COURT: Continue.

MR. WELSH: Your Honor, I would just like to see a copy of that, of what he is going to testify from.

THE COURT: You are entitled to look at it, if you want to, you can step right up to the witness box, and examine it.

MR. WELSH: Thank you.

(Pause.)

BY MR. SOLOMON: (Resuming)

Q Mr. Shapiro,let me ask you, why are you appearing

here today?

A I was subpoenaed.

Q By whom?

A By you.

Q Mr. Shapiro, if we could go to page --

A Which one 7?

Q Page 7 of Aaron and Irs Kraut.-- or is that Aaron and Iris Kraut?

A Do you mean schedule or page 7?

Q Page -- just count 7 pages, it is your schedule 4A2.

A Yes, I have it.

Q That's a computation that you made with respect to this report for the year 1967 and the year 1966?

A Yes.

Q Would you tell the Court what that schedule indicates?

A I'll read it.

Q If you will.

A It says, for income received from Cathederal of Tomorrow, Incorporated --

Q Would you read it from the beginning, D -- it says D, right?

A D.

Q Right, okay.

A Capital gains, sale of Nassau Plastics and Wire Corporation, and for income received from Cathederal of Tomorrow, Incorporated, reported as long-term capital gain and deemed ordinary income as follows. Do you want me to read all this?

Q It is not much, just read 1967?

A Well, there are three columns, 1966, 1967, and a total column. The first line is total collected, 1967 -- just?

Q Yeah, just read that.

A $1,268,275.00, expense of collection $55,441.66, reported long-term capital gain of 100 percent, $1,212,833.34, reported as capital gain by each, one-half to each pro rata, $606,416.67, deemed ordinary income for adjustments, see above, $425,747.92, deemed sale price of capital assets --

Q Well, excuse me, at that point, when you say deemed sale price of capital -- that is the balancing figure from 606, you took off $425,000.00 from 606 --

A Yes.

Q And, you are saying now, that that portion or $180,668.75 is the sale of the capital assets?

A Yes.

Q Okay, would you continue?

A And, the difference is deemed sale price of capital assets, $180,668.75.

Q Then you are repeating that saying that it is a long-term capital gain?

A Yes, the basis of cost is zero, so the capital gain realized is 100 percent, would be the same figure, $180,668.75, long-term capital gain reported at 100 percent, $606,416.67, excess reported at 100 percent, $425.747.92. I have lost track of the logic of this. Taken into discount of 50 percent, and allowed as a decrease $212,873.96.

Q Mr. Shapiro, fine, thank you.

A I understand now.

Q From this report, if you would look at it for a moment, you would conclude at the time that you wrote this report, that a portion of the collections in 1967 were deemed by you to be capital gains?

A Yes.

Q And, a portion were deemed by you to be ordinary income?

A Um-huh.

Q In order to have as an expert with 25 years experience, in order --

MR. GOLDBERG: I object, YOur HOnor, I don't think he is qualified Mr. Shapiro as an expert.

MR. SOLOMON: Well, we could stipulate --

MR. GOLDBERG: We --

MR. SOLOMON: Well, I wasn't going to ask him

a question with respect to valuation, Your Honor. I was going to ask him something about a revenue agent's report, and the work that he did for the INternal Revenue Service for 25 years.

MR. GOLDBERG:I think --

THE COURT: You can ask him what he did, I think that you have already established for the record that he was in this business for 25 years, and the record shows that.

BY MR. SOLOMON: (Resuming)

Q Mr. Shapiro, in order to afford this taxpayer that you examined -- read this report, and give him a capital gains treatment, of -- of monies -- of the gains that were received, in your opinion, did they have to be a sale or exchange of a capital asset?

A I think so.

Q Do you know for sure?

A Ah --

Q Could there be capital gains without a sale of the capital assets?

A No, there must be a transfer.

Q There must be a transfer --

A Of assets.

MR. SOLOMON: I have no further -- oh, I would like to have those documents submitted into evidence.

MR. GOLDBERG: Again, I object, YOur HOnor, I think as you said before 1966 has no bearing on the case, in 1967, Mr. Shapiro's report is not the basis from which the statutory notice was issued in 1967, what the Respondent has done is taken the before tax income on the tax return, and capitalized it at 10 percent of its earnings, and we have arrived at a value of $168,000.00 as set forth in the statutory notice, not a half a million dollars as Mr. Shapiro as stated we valued it for.

MR. SOLOMON: Your HOnor --

MR. GOLDBERG: And, therefore, we are certainly not bound by Mr. Shapiro's report, because it is not the basis for the case.

MR. SCHEINFELD: Your Honor, as I understood your ruling earlier, you did not say that this has no bearing upon the case, I believe that you ruled that this -- that this is not controlling upon the Government. I think that it does have some creditable weight in this case, which Your Honor may take into consideration in his final determination.

THE COURT: I assumed when I made the remarks that I did, that this -- that the reports that were before the witness were those upon which the determinations were made here. Now, the Respondent's counsel tells me that they weren't even -- the reports upon which the basis of the

determinations were made.

MR. SOLOMON: Your Honor, the actual dollar --

THE COURT: Is that true?

MR. SOLOMON: It is true in part. The basis for the deficiency was the deeming of the collections, ordinary income, and both the Respondent through a statutory notice and the Respondent through a revenue agent, who worked on this particular matter, had the same philosophy, they deemed a portion of the collections of proceeds from a sale, ordinary income, and -- and this case -- it is the same philosophy, whether it be half a million dollars, or $168,000.00.

THE COURT: I will receive 7 and 8 into evidence, but I will state it again, that these do not bind the

** 983 Government.

MR. SOLOMON: Thank you, Your HOnor. Your Honor, I have no further questions for this witness.

MR. WELSH: Can I see Exhibits 7 and 8?

(Pause.)

CROSS EXAMINATION BY

MR. WELSH:

Q Mr. Shapiro, I just have a couple of questions. In your audit of the Krauts in 1968 regarding the year 1967, do you recall what the Petitioner's representative, Mr. Solomon said to you at that time regarding the contract

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of sale with Wilson Mold and Die Company?

MR. SOLOMON: Objection, Your Honor, that's irrelevant and immaterial.

THE COURT: What's the point of the question?

MR. WELSH: Your Honor, the -- the,stipulated as an Exhibit is the contract of sale with Wilson Mold and Die and Nassau and the shareholders of Nassau Plastics and Wire, and in determining a value of the corporation, I think that Mr. Shapiro may have looked at that contract to reach a value for the corporation.

THE COURT: This whole area of interrogation is wide of the mark, I will let the witness answer your question.

MR. WELSH: I just have two --

THE COURT: It is wide of the mark because the Petitioner has started it, and since I have given him that much leeway, I'll give the Government leeway to follow it up.

MR. WELSH: Thank you, Your Honor. I'll make it brief.

THE COURT: You could do just as well by simply not asking any questions if you wish.

MR. WELSH: I'll make it brief, Your Honor.

BY MR. WELSH: (Resuming)

Q Do you recall?

A I don't know.

Q I would like to show you a report -- it is a transmittal letter, can you identify this?

A Yes, it is my letter.

Q Now, would you look at page 4 of this transmittal --

THE COURT: Are you showing him a document that's in evidence?

MR. WELSH: No, Your Honor, I'm showing him a document to refresh his recollection.

THE COURT: Is it one that is going to be submitted into evidence?

MR. WELSH: No, Your HOnor.

THE COURT: Very well.

(Pause.)

THE WITNESS: I recall it, yes.

BY MR. WELSH: (Resuming)

Q Well, what did Mr. Solomon say to you regarding the contract of sale with Wilson Mold & Die Corporation?

A In respect to what, Mr. Welsh? I can tell you what I know of the contract by memory.

Q Well, what do you know of the contract?

A As -- I read it there, I recall that I was told that there was previous contract of sale, and that the -- as I stated there, the seller -- the buyer asked to be

relieved of his obligation because it was too difficult for him to go through with it, because of the financial arrangement.

Q Well, what's particular about the financial arrangement?

A He couldn't pay it, because he would lose money on the thing, he would have to pay income tax on the income, and he would have to pay -- he would have to pay income tax on the income, and he would have to meet the payments of sale, of the purchase.

Q So in other words --

A It would be greater than his income.

Q It would be greater than his income. All right, do you recall what you said in this report regarding the valuation of the business, Nassau Wire and Plastics -- Plastics and Wire?

A I don't recall, I can give you the logic of how you arrive at these figures.

THE COURT: Off the record.

(Whereupon, a brief off the record discussion was held at the bench.)

BY MR. WELSH: (Resuming)

Q All right, I would like to show you a report once again.

(Pause.)

Q Just read the first paragraph on that page.

(Pause.)

Q Is it true, Mr. Shapiro, that when you determined a value of $500,000.00 for Nassau Plastics, that you did not consider future earnings?

A That's true, according to that, --

THE COURT: According to what?

THE WITNESS: I guess. It is -- what I read, this is my statement. I don't recall orally anything, but my statement is what I thought then, and this is -- I agree with this. It is true. This is the --

BY MR. WELSH: (Resuming)

Q And, you base it merely on the fact that there was a $500,000.00 minimum price in the contract?

A Yes.

Q Thank you.

MR. WELSH: That concludes my questions.

MR. SOLOMON: May I have one question, Your Honor?

REDIRECT EXAMINATION BY

MR. SOLOMON:

Q You stated that -- excuse me --

MR. SOLOMON: No questions, Your Honor.

THE WITNESS: Am I excused, Your Honor.

THE COURT: The witness has asked whether he

is excused, and I will excuse him if neither side wishes him to remain.

MR. SOLOMON: Thank you. The witness may be excused.

THE COURT: You may be excused.

(Witness excused.)

THE COURT: You may call your next witness.

MR. SOLOMON: I call Aaron Kraut.

THE CLERK: Do you solemnly swear that the testimony you are about to give to the Court in this case, shall be the truth, the whole truth, and nothing but the truth, so help you God?

THE WITNESS: I do.

THE CLERK: Please take the stand, and for the record may we have your name and address?

THE WITNESS: Aaron Kraut, 4047 Greentree Drive, Oceanside, New York.

A A R O N K R A U T, called as a witness on behalf of the Petitioners, having been duly sworn, took the stand, and testified as follows:

DIRECT EXAMINATION BY

MR. SOLOMON:

Q Mr. Kraut, are you a petitioner, one of the petitioners?

A Yes.

Q I would like to ask you questions with respect to a sale of Nassua Plastics and Wire capital stock to the Cathederal of Tomorrow. Who were the shareholders of Nassau Plastic and Wire?

A Iris Kraut and Marion Kraut.

Q What are their relationships to you?

A Our wives.

Q When was Nassau Plastics and Wire Corp. formed?

A In 1965.

Q Who were the original shareholders?

A Marion and Iris Kraut.

Q When -- when did they sell their capital stock in Nassau Plastics and Wire Corp to the Cathederal of Tomorrow?

A In 1966.

Q How much did --

THE COURT: Would you develop through this witness or through any other witness what this business was all about?

MR. SOLOMON: Yes, Your Honor.

THE COURT: And, how it functioned, and paint some kind of background to me that is going to be more meaningful than what appears in the stipulation of facts?

MR. SOLOMON: Yes, Your Honor.

THE COURT: I would rather have you do it than

to have me ask the questions.

MR. SOLOMON: Maybe it would be better.

BY MR. SOLOMON: (Resuming)

Q Well, I would like to establish the sale and the selling price, and then we can get into the other testimony. Mr. Kraut, did your wife and your sister-in-law sell their stock in Nassau Plastics and Wire Corp. to the Cathederal of Tomorrow?

A Yes.

Q When did they sell it -- the stock?

A In 1966.

Q And, how much did they sell it for?

A $3,500,000.00.

Q Mr. Kraut, -- excuse me, -- Mr. Kraut, I would like you to describe the business function of Nassau Plastics and Wire Corp?

A Nassau Plastics and Wire was formed to develop and manufacture plastic Christmas wire and components.

THE COURT: That is electrical wire?

THE WITNESS: That is correct.

BY MR. SOLOMON: (Resuming)

Q Was that to be its only function?

A Yes.

THE COURT: Now, when -- when was it formed?

THE WITNESS: In 1965.

THE COURT: Was there any predecessor business out of which this corporation grew?

THE WITNESS: NO.

THE COURT: Who were the dominant figures in the business?

THE WITNESS: Myself and my brother.

THE COURT: Had you ever been in the business dealing with wire or its components before?

THE WITNESS: I have been in the wire business for 30 years.

THE COURT: And, by that you mean what, selling, manufacturing, what?

THE WITNESS: Manufacturing, developing, etc.

THE COURT: What is Christmas wire as distinguished from other kinds of wire?

THE WITNESS: It is the wire that you use in Christmas tree lighting outfits, the Christmas tree lighting business is a business all unto itself. Our customers manufactured the completed sets, they use our wire, they attached sockets to it, bought the bulbs, etc. and packaged it and sold it to the stores.

THE COURT: Is this different from other types of electrical wire of light gage?

THE WITNESS: Well, Nassau was somewhat special in that area.

THE COURT: In what way?

THE WITNESS: We developed -- well, what was happening in that field was, we -- there was a considerable rejection rate in the business through the manufacturers. They were utilizing a new type of socket to eliminate a great deal of labor. It was a socket that would snap onto the wire, where little pieces of brass would puncture the plastic, and make contact with the wire, thereby making a quick assembly.

THE COURT: The wire was covered with plastic --

THE WITNESS: Yes.

THE COURT: Rather than cloth material of some sort?

THE WITNESS: That's right -- that's correct. They were getting a tremendous rejection rate with the normal Christmas wire that was being utilized. We developed in Nassau Plastics a material that almost completely eliminated their rejection rate.

THE COURT: NOw, did you manufacture this product, or did you purchase it and then resell it?

THE WITNESS: We manufactured it.

THE COURT: What did the manufacturing process consist of?

THE WITNESS: AH --

THE COURT: I take it that you bought wire that

was already manufactured, and you merely wrapped it in this plastic?

THE WITNESS: No, we put it through a plastic extruder, and we tooled this extruder up specially for this particular material. It was unique, because this type of material was never utilized for this product before.

THE COURT: How many people were involved in this operation?

THE WITNESS: Well, in 1965 it was only experimental, and little by little as we found the tremendous acceptance of this product, why around February of 1966, we had I imagine about six or seven people.

THE COURT: Employees?

THE WITNESS: Employees, yes.

THE COURT: That's in addition to yourself and your brother?

THE WITNESS: Yes.

THE COURT: Now, I don't find on Exhibit 3, which is the corporation return for the year ending June 30, 1966, any item for salaries and wages, unless those salaries and wages were included in the item 2 on the first page, namely cost of goods sold.

THE WITNESS: I can't answer that because I don't -- I never took care of these things, I just -- my job was to develop and produce a product, and I never took any time

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you know to handle these things.

THE COURT: Item 2, which is the costs of goods sold -- asks for the attachment of a schedule A which would set forth the components of the cost of goods sold, I don't seem to find any schedule A -- oh, there is, the schedule A is on the back of -- of the first page, and there are no salaries or wages listed at all. And, the only item that's listed for costs of goods sold was merchandise bought from manufacturer for sale. Can you explain that?

THE WITNESS: I cannot explain that.

THE COURT: This return -- the return that was filed does seem to disclose any manufacturing operation whatever by this corporation. It suggests to me that this was merchandise purchased by the corporation and then re-sold.

THE WITNESS: Well, --

THE COURT: This is what the return shows. Does counsel have any explanation for this?

MR. SOLOMON: I -- I don't know what the return discloses, I have a copy of it, it does indicate what Your Honor has indicated, but this organization manufactured Christmas wire, and that's what it did. And, --

THE COURT: Well, I'm no sure that the Petitioner says -- that this witness says that he was in the wire business for some 30 years, and I -- the thought naturally arises in

my mind as to whether perhaps this manufacturing operation wasn't carried on by some other entity under the control of this -- under this witness and his brother. Could you comment upon that, please, Mr. Kraut?

THE WITNESS: We -- we actually manufactured the --

THE COURT: Well, when you say we, tell me who the we are?

THE WITNESS: I did, my brother did, and several employees, it might have stated with one, and wound up with six or seven.

THE COURT: But did you do it -- but did you do it under the Nassau Plastics and Wire Corporation umbrella, or did you do it under the -- under some other entity, or partnership?

THE WITNESS: It was done under --

THE COURT: Or did you and your brother --

THE WITNESS: It was done under Nassau Plastics, and I don't know why it is not there, but it was done under Nassau Plastics.

MR. SOLOMON: Your HOnor, may I just ask a few questions that maybe we can straighten this matter out?

THE COURT: You may indeed, because I'm confused, and from the Exhibit that is before me, the exhibit that is before me, would contradict what this witness is testifying

MR.SOLOMON: Yes, sir.

BY MR. SOLOMON: (Resuming)

Q Mr. Kraut, do you manufacture or insulate wire under any other corporate name, in 1965 and 1966 other than Nassau Plastics and Wire?

A Yes.

Q What was the name of the organization that manufactured --

A Trio Wire and Cable Corporation.

Q How long have you operated in the insulating of copper wire with plastic or other related materials in Trio Wire and Cable?

A At least 20 years.

Q Mr. Kraut, did Trio Wire and Cable Corporation manufacture Christmas wire?

A No.

Q What kind of wire does Trio Wire and Cable manufacture?

A Cable - heavy cables, -- oh, it is hard to describe, I know -- them by their trade names.

Q Use -- use the best language you can think of using?

A Oh, elevated cables, lamp cord and -- oh, I don't know how to describe it, what they call SJT wire, varicus types of wires that were plastic insulated.

Q Could --

THE COURT: Had you obtained a patent for this -- for the type of wire that was used --

THE WITNESS: No.

THE COURT: That you call Christmas wire?

THE WITNESS: No.

THE COURT: When did you first develop it?

THE WITNESS: We began developing it in a section of the company.

THE COURT: Well, do you mean in 1965?

THE WITNESS: Yes.

THE COURT: And, not before that?

THE WITNESS: No.

THE COURT: Well, I am puzzled by the word we.

THE WITNESS: My brother and I.

BY MR. SOLOMON: (Resuming)

Q When you use the word we, who do you mean?

A My brother and I.

Q You know, Mr. Kraut, you use the words here of Christmas wire and I assume that you have explained that, and the development, was there anything about the Christmas wire that made it different than other -- than other wire?

A Ah --

Q Was it double -- was -- did it have two wires

-- A Which Christmas wire? Q In it, one wire in it, -- A No, it had two wires in it. Q I mean was it a two conductor wire, or a single -- A Two conductor wire. Q And, you have mentioned that this wire was a better wire to be used by Christmas light manufacturers other than other Christmas wire -- are -- excuse me, are there any competitors in the Christmas wire business -- A Yes, there -- Q Who insulate -- A Are people who manufacture wire. Q Now, why would you want to go into the Christmas wire business? A I think that it is a great area. Q Excuse me, for a moment, were you ever in the Christmas wire business before? A Yes. Q Why didn't you continue in the Christmas wire business? A There were too many problems in the area -- the rejection rate and etc.

THE COURT: Now, I want to know what you mean

by the word you, when counsel asked you, were you ever in the Christmas wire business before, are you referring now to the Trio Corporation?

THE WITNESS: No.

THE COURT: Well, in what --

THE WITNESS: Well, there was a company called the Christmas Wire Manufacturing, prior -- prior to 1965.

THE COURT: How long had that been in existance?

THE WITNESS: I don't recall.

THE COURT: OKay, what's your best estimate as to the number of years?

THE WITNESS: I -- I just don't remember that fa[illegible]ck.

THE COURT: Was it more than five years?

THE WITNESS: I imagine that it was at least -- in that area.

THE COURT: Well, between five and ten?

THE WITNESS: It very well could be, but you are asking me to guess, but I can't be sure.

THE COURT: Well, I want your best judgment rather than a guess.

THE WITNESS: In the neighborhood of five years.

THE COURT: And, who were the stockholders of that corporation?

THE WITNESS: AAron and Harry Kraut, I think it

was. I forget again -- Aaron and Harry Kraut.

THE COURT: You and your brother each owned half of the corporation?

THE WITNESS: Yes, that's right.

THE COURT: Were your wives the stockholders rather than you?

THE WITNESS: No, no.

THE COURT: Rather than you and your brother?

THE WITNESS: No. My brother and I were the stockholders.

THE COURT: Now, was the Nassau Plastics and Wire Corporation pretty much the successors to this other corporation?

THE WITNESS: No, because until I developed this new -- this new wire, I -- we didn't have that much of a taste for manufacturing Christmas wire.

THE COURT: But -- but you and your brother were manufacturing Christmas wire through this other corporation --

THF WITNESS: Right.

THE COURT: Could you give me its name again?

THE WITNESS: Christmas Wire Manufacturing Corporation.

THE COURT: What happened to that corporation?

THE WITNESS: That was sold.

THE COURT: When?

THE WITNESS: In 1965.

THE COURT: And, by sold you mean that the stock was sold?

THE WITNESS: Yes.

THE COURT: To whom?

THE WITNESS: Southwest Metal Industry.

THE COURT: What was Southwest Metal Industry?

THE WITNESS: I don't know their -- I have just completely forgotten what their business was.

THE COURT: Was that on a -- was that corporation on a fiscal year basis?

THE WITNESS: I don't know.

THE COURT: What were its earnings during its last year prior to your sale?

THE WITNESS: I don't remember that either, Your HOnor.

THE COURT: What is your best recollection?

THE WITNESS: It is just completely blank in my mind. But the tax report probably could show it.

THE COURT: Does either party expect to present any evidence in respect to that prior corporation?

MR. SOLOMON: I do not, Your Honor.

MR. WELSH: We do not, Your Honor.

THE COURT: And, when you say you sold the stock

to the Christmas Wire and Manufacturing Corporation, what was included within that corporation, was there real estate, was there fiscal assets, what was included?

THE WITNESS: I don't remember that either, Your Honor.

THE COURT: Where was the business conducted?

THE WITNESS: At the same address as --

THE COURT: As your Trio Corporation?

THE WITNESS: As Nassau Plastics, or you can say that -- yes, as Nassau Plastics, where it is now, that's where we conducted its operation.

THE COURT: Is the Nassau Plastics business was that conducted at the same place as your Trio Corporation operated its business?

THE WITNESS: It was in a separate building.

THE COURT: An adjacent building?

THE WITNESS: An adjacent building.

THE COURT: Did you lease the building, or did you own it?

THE WITNESS: We leased it.

THE COURT: So, that the sale did not include any sale of real estate?

THE WITNESS: That's correct.

THE COURT: Did it include machinery?

THE WITNESS: I don't recall.

THE COURT: Did it include any physical assets of consequence?

THE WITNESS: It may very well have, but I just don't remember.

THE COURT: Proceed.

BY MR. SOLOMON: (Resuming)

Q Mr. Kraut, we talked about -- can you hear me?

A Yes.

Q During our discussions you talked about Christmas wire, and it leaves me to believe that -- that there must have been something different or -- I don't know, what -- what was so -- what was the -- the wire manufactured by Nassau, what was so -- why wasn't it the same as every other wire?

A When you say the same as any other wire, do you mean the same as any Christmas wire?

Q Christmas wire?

A Well, what we did was we developed the utilization of a softer plastic over the copper, so that it would receive those pin-type sockets without having that rejection rate that was prelevant with the normal type of plastic that was being utilized.

Q How as this accepted by the Christmas light manufacturers?

A We were overwhelmed with business after we

submitted sample ones to the customers.

Q If it was such a good deal, Mr. Kraut, why didn't you manufacture it in Trio Wire and Cable?

A With its good points, it had a serious point that was an unknown quantity to us. In utilizing this soft plastic, it gave us some doubts as to how it would hold up in the field after several years.

THE COURT: Mr. Kraut, getting back to the sale of your Christmas Wire Manufacturing Corporation stock in 1965, I think that I asked you what the earnings of that corporation were --

THE WITNESS: Yes.

THE COURT: In its last year before sale, and I think that I also asked you what the sale price of the stock was. And, in substance I believe that you told me that you didn't remember.

THE WITNESS: That's correct.

THE COURT: That is an answer which I have considerable doubt in accepting, and I ask you again to give me your best recollection and your best judgment as to, one, what the earnings of this business -- of the Christmas Wire Manufacturing Corporation were, during its last year of operation before you sold it, and secondly, the price at which you sold the stock. I find it extremely difficult to believe that you have no recollection whatever of what

these figures are?

THE WITNESS: Your Honor, -- that is absolutely true. I have no recollection.

THE COURT: Do you have any materials in the Courtroom to refresh your recollection or give you a hint, or stimulate your recollection?

THE WITNESS: I do not, it is eight years ago, and I just have absolutely no recollection of it.

THE COURT: Would you have a recollection of whether it was in the range of $100,000.00 or $1,000,000.00?

THE WITNESS: I don't -- I really don't have that --

THE COURT: Do you think that you sold it for $10,000,000.00?

THE WITNESS: I have no idea what I sold it for, I know that it wasn't sold for $10,000,000.00.

THE COURT: All right, was it sold for in excess of $1,000,000.00?

THE WITNESS: I don't know --

THE COURT: That's a lot of money.

THE WITNESS: I don't think so, but I don't know.

THE COURT: All right, was it sold for more than $100,000.00?

THE WITNESS: It could very well be. But, I don't have -- I don't have the answer to it, it is completely

blank in my mind.

THE COURT: These are not trivial amounts of money.

THE WITNESS: I know that.

THE COURT: Are you accustomed to deal with sums of this character? Customarily?

THE WITNESS: I don't know how to answer that. I think that I have become accustomed to it, but I don't -- I don't recall what happened eight years ago, Your Honor.

THE COURT: Can you give me your best recollection as to what the range was?

THE WITNESS: I would say anywheres from $100,000.00 to a million dollars, it could be anywheres there.

THE COURT: That is, you are talking about the sale price?

THE WITNESS: That's right.

THE COURT: This puts great strain upon my credulity, Mr. Counsel.

MR. SOLOMON: Your HOnor, it is not unusual to be involved with a businessman who really doesn't know -- a very simple reason that in his team -- in his way of operating, unfortunately his brother couldn't be here, but Harry Kraut was a person who Aaron Kraut relied on for many, many of the fiscal relationships that he had. I -- I don't believe from my own knowledge that I could ask Aaron Kraut

anything unless I show him a piece of paper. I don't believe that he knows what is on his tax return unless I show him a piece of paper. And, he is quite used to dealing in -- in numbers that large. It is not unusual.

THE COURT: Well, you are not a witness, Mr. Counsel.

MR. SOLOMON: Well, --

MR GOLDBERG: Your Honor, the Government had subpoenaed Harry Kraut, and counsel for the Petitioners had told us that he had to be in Court today, but when I asked him whether Aaron will testify as to what happened, he assured me that Aaron knew as much as Harry knew, and therefore, there would be no problem in -- either one could testify with regard to everything that happened in the case. They are both familiar with the business and knew what had happened. And, based upon the counsel for Petitioner's reliance, we did not enforce the subpoena against Harry Kraut to be here today.

MR. SOLOMON: Well, Your Honor, I think that the witness is being as responsive as he could be, with respect to this matter.

THE COURT: I will have to form my own judgment on that, Mr. Counsel, proceed.

MR. SOLOMON: Yes, sir.

BY MR. SOLOMON: (Resuming)

Q My last question, Mr. Kraut, what does the premisis at Meserole Avenue look like? Is there one building where you had three corporations?

A There were three separate buildings.

THE COURT: What -- what address are you giving the witness?

MR. SOLOMON: Not a particular address, but where the factories were, and -- on Meserole AVenue.

THE COURT: What street?

MR. SOLOMON: Meserole Avenue. The address --

THE COURT: Well how does that relate to the address of the Nassau Plastics and Wire Corporation?

MR. SOLOMON: I saw that too, Your Honor, that -- the accountant who prepared that return used Mr. Kraut's home address.

THE COURT: Well, the address shown on Exhibit 3-C is 315 Virginia Avenue.

MR. SOLOMON: That is Mr. Kraut's home.

THE COURT: Does counsel correctly state that?

THE WITNESS: Yes, at that time, yes.

THE COURT: Now, what is the address that -- what is the street that counsel is referring to?

MR. SOLOMON: Meserole AVenue, in Brooklyn.

THE COURT: How do you spell that?

MR. SOLOMON: M-e-s-e-r-o-l-e.

THE COURT: And, is that where the manufacturing operations were carried on in your wire business?

THE WITNESS: That's correct.

THE COURT: And in this question I am using the word your, to refer to the various entities that you and your brother were interested in for manufacturing wire. And, that would involve the Trio Corporation as well as the Christmas Wire Manufacturing Corporation and the Nassau Plastics and Wire Corporation?

THE WITNESS: That's correct.

THE COURT: Are there any other entities besides those three that you functioned under?

THE WITNESS: No, sir.

THE COURT: Proceed.

BY MR. SOLOMON: (Resuming)

Q Mr. Kraut, why did you form or cause to be formed Nassau Plastics and Wire Corporation?

A To develop Christmas wire -- to develop and manufacture Christmas wire and its components.

THE COURT: Did you form it simultaneously with the sale of your -- of this predecessor corporation, namely the Christmas Wire Manufacturing Corporation?

THE WITNESS: No, I don't think so.

THE COURT: You said you sold that in 1965?

THE WITNESS: That's right.

THE COURT: Do you remember what part of the year?

THE WITNESS: I am not sure, it might have been a month or two months that spaced them apart.

THE COURT: These were -- but these were roughly continuous operations?

THE WITNESS: Do you mean where one continued from the other?

THE COURT: Well, where one picked up business after the other stopped?

THE WITNESS: No, no, I think it was -- our attitude was a completely different attitude as far as --

THE COURT: I'm trying to fix the point of time.

THE WITNESS: I don't have that here. It was in 1965, it might have been three months, four months, it might have been a month, it might have been three weeks, I have no -- I don't know -- I don't have those figures off-hand.

THE COURT: But, it was a comparatively short space of time between the point at which you sold the stock in the Christmas Wire Manufacturing Corporation, and the beginning of operations under the Nassau Plastics & Wire Corporation?

THE WITNESS: I would venture to say so.

THE COURT: A matter of a few weeks or a few months?

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THE WITNESS: It could be, yes.

THE COURT: That's your best recollection?

THE WITNESS: Right. Right.

THE COURT: Now, you and your brother owned the stock in the Christmas Wire Manufacturing Corporation, I think that you testified?

THE WITNESS: Yes.

THE COURT: And, the stock in the Nassau Plastics and Wire Corporation was owned by your respective wives, was this merely a matter of convenience of putting the stock in their names rather than in the names of -- rather than in yours and your brother's name?

THE WITNESS: Well, I wanted my wife to have something in her name, and Harry did too, so we did it.

THE COURT: But you and Harry were the dominant figures in the enterprise?

THE WITNESS: That's correct.

THE COURT: Did they perform -- did your wives perform any services?

THE WITNESS: No.

BY MR. SOLOMON: (Resuming)

Q Mr. Kraut, was it necessary for any --development of any special tooling or anything to manufacture the Christmas wire that you manufactured in Nassau Plastics and Wire?

A Would you repeat that question?

Q Was there any -- did you have -- in using the soft plastic that you testified you used, --

A Yes.

Q Did you have to do anything in order to be able to utilize soft plastic?

A Yes, we had to retool the -- part of the machine to utilize this material.

Q If I were to show you the tax return that the Judge is looking at, and you --

THE COURT: Exhibit 3-C.

BY MR. SOLOMON: (Resuming)

Q Exhibit 3-C, you would see on the balance sheet, -- in fact I will show you -- just look at this, this is a balance sheet of Exhibit 3-C, if you will look at that --

THE COURT: That's the back page.

BY MR. SOLOMON: (Resuming)

Q That's Schedule L -- Schedule L of the tax return for Nassau Plastics and Wire Corp. for the year ended June 30th, 1966. I direct your attention to line 8 --

A Um-huh.

Q That -- could you tell me what that line says?

A Line R --

Q No, no, read the --

A Buildings and other fixed appreciable assets --

Q Could you read the number?

A $218,000.00 --

Q No, that's $2,181.00.

A Oh, $2,181.17.

Q In order -- in order to manufacture the Christmas wire, you could do that on an asset worth $2,118.17?

A No.

Q What do you need in order to manufacture Christmas wire?

A You need a plastic extruder and a component part to it.

Q How much would a plastic extruder cost?

A $40,000.00 -- $45,000.00.

Q Well, the balance sheet of the Exhibit 3-C doesn't indicate that Nassau Plastics and Wire owned an extruder?

A That's correct.

Q Well, how did they manufacture the wire?

A They -- Nassau leased that extruder and its equipment.

THE COURT: From whom?

THE WITNESS: From Trio Wire & Cable Corporation.

BY MR. SOLOMON: (Resuming)

Q And, -- and what type of plastic was used in

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the insulation of the Christmas wire that Nassau Plastics and Wire produced?

A A comparatively soft plastic, something new in that area.

Q And, that could be done easily on the extruder that you leased from Trio Wire and Cable?

A After we retooled --

Q I don't understand, Mr. Kraut, what do you mean, after we retooled --

A Well, we had to adapt certain equipment to accept this material.

Q Well, does that require -- could you explain to us what retooling in essence means?

A Well, we more or less -- well, it is very complicated, but I will try. There are certain guider tools, and various component parts that allow this plastic to be utilized. It flows through a certain area, and if you don't have this particular -- these particular types of tools that I utilized for it, you just can't -- you can't extrude this material, it is rather difficult, but once you have utilized the equipment -- or tooled up for it, correctly, it is very readily --

Q Again I ask you, if this -- as long as it was Trio Wire and Cable's extruder that you leased to Nassau, and you -- and Nassau did some tooling to run soft plastic,

why didn't Trio Wire and Cable run that material?

A It could have.

Q Well, why didn't it, it would have increased business?

A Well, the soft plastic material had a particular drawback, it was an unknown quantity, we didn't know how it would react two or three years after it was manufactured, and after several discussions with our accountant and attorney, we decided that we would be complete idiots to take a chance on putting -- producing this material in Trio Wire and jeopardizing the corporation.

Q What do you --

THE COURT: Mr. Kraut, I'm still confused as to the relationship between the manufacturing operations at Trio and the operations conduced by Nassau Plastics and Wire Corporation, now first let me get the geographical location-ship between the two.

There was some statement made that they were in adjacent buildings?

THE WITNESS: There were three buildings.

THE COURT: Yes.

THE WITNESS: Trio Wire originally occupied all three buildings. This one extruder was idle most of the time, and Nassau Plastics leased that extruder.

THE COURT: Now, was that in a building -- in one

of the three buildings that -- let me put it in terms of a question -- these three buildings were contiguous to one another?

THE WITNESS: They were separate, yet they were openings in the buildings to allow passage between them.

THE COURT: How much space was used for the operations that were carried on by Nassau Plastics and Wire Corporation?

THE WITNESS: Oh, approximately 10,000 square feet.

THE COURT: How many stories?

THE WITNESS: One story.

THE COURT: And, was the extruder in that building?

THE WITNESS: That's correct.

THE COURT: Another question in relation to what assets Nassau Plastics and Wire Corporation had, is line 8 on the balance sheet, of Exhibit 3-C, shows the depreciable assets in the amount of $2,181.00, what were those assets?

THE WITNESS: I don't know.

THE COURT: Were they office equipment?

THE WITNESS: I don't recall, Your Honor.

THE COURT: Was it -- was it any manufacturing equipment?

THE WITNESS: It could have been any one of

those things, that you have mentioned but I just don't recall.

THE COURT: If it were manufacturing equipment would it have been minor in character in relation to the extruder, which you indicated was some -- was worth some $40,000.00?

THE WITNESS: I really cannot say, because I don't --

THE COURT: Well, my question really answers itself.

THE WITNESS: I can't answer that because -- you know, the accountant made out -- filled out these tax returns from whatever information they had, and all I did was sign them, but I didn't get into that area.

THE COURT: When the stock in Nassau Plastics & Wire Corporation was sold, or disposed of, or -- ah -- in 1966, were the operations conducted -- did the -- did the operations continue to be performed at that same address?

THE WITNESS: Yes.

THE COURT: What about the extruder?

THE WITNESS: It continued to perform the -- in the same place.

THE COURT: And, that continued to be owned by the Trio Corporation?

THE WITNESS: The machine itself was owned by Trio Wire and Cable.

THE COURT: And leased to --

THE WITNESS: And, leased by Nassau --

THE COURT: To this new entity?

THE WITNESS: That's correct.

THE COURT: Had that extruder been used in the business of the Christmas Wire Manufacturing Corporation?

THE WITNESS: I don't recall.

THE COURT: Was that a plastic covered wire that that corporation manufactured?

THE WITNESS: Yes. It could have been, but I can't answer for sure on that.

THE COURT: What is your best recollection?

THE WITNESS: I have no recollection.

THE REPORTER: Excuse me, I have about five minutes left on the tape.

THE COURT: Okay.

BY MR. SOLOMON: (Resuming)

Q Mr. Kraut, how many employees were needed in the manufacturing of the Nassau Plastics and Wire Christmas wire?

A Approximately six or seven, when it was in full production.

Q And, how many -- when it was in full production,

what was the projection -- what was your best estimate that when Nassau -- that when this extruder was in full production, that it could produce in Christmas wire?

A You mean overall volume or profitwise?

Q Overall volume?

A Ah -- anywheres from $2,000,000.00 to $6,000,000.00 a year.

Q And, was your -- what did you think that based upon the acceptance of this soft plastic wire, that -- what was your understanding of what profits this company could make?

A I projected earnings in the area -- and this is conservative, over a ten year period of at least $10,000,000.00.

Q If it could produce $10,000,000.00 in earnings over a ten year period, well, how come you sold it for $3,500,000.00?

A Because those were projections, and no one knows what is going to happen six months from now --

Q The Cathederal offered you $3,500,000.00 for this business and you sold it immediately?

A No.

Q Tell me what happened?

A We wanted $5,000,000.00 for it.

Q Based on what?

A On my projected earnings.

Q And, why did you accept $3,500,000.00?

A Well, it was a matter of bargaining, they didn't want to pay $5,000,000.00, and I didn't want $2,500,000.00 or whatever they came in, I think it was $2,500,000.00.

THE COURT: You accepted a minimum of $500,000.00 did you not?

THE WITNESS: No, I didn't

THE COURT: Counsel has been assuming $3,500,000.

THE WITNESS: We didn't accept a minimum of $500,000.00.

THE COURT: I think that the stipulation and the Exhibits will speak for themselves.

MR. SOLOMON: Mr. Kraut -- the Exhibits will speak for themselves, that's true, Your Honor.

BY MR. SOLOMON: (Resuming)

Q Mr. Kraut, did you read the contract with the Cathedral of Tomorrow in the sale of the shares of Nassau Plastics and Wire Corp?

A I read it a long time ago.

Q Did you read it?

A Yes.

Q Do you remember it?

A Some of it, but not too much of it.

Q What do you remember? If anything?

A That we were to be paid $3,500,000.00 over a period of ten years.

THE COURT: If this product was not patented, what expectation did you have that there wouldn't be competitors in the field fairly promptly that might just knock your projections into a cocked hat?

THE WITNESS: Well, we had other projections besides that. We expected to manufacture Nassau Plastics in far more than just the wire. I had projected the thought of manufacturing the wire with sockets already automatically attached, and I had projected the -- the thought -- not the thought, I was hoping someday to manufacture the bulbs that go with it.

THE COURT: Well, there would be competitors in that operation too, would there not?

THE WITNESS: We had -- we had a very efficient operation in Nassau Plastics. I have found over the years that --

THE COURT: Are you still connected with that operation?

THE WITNESS: At this point, with Nassau Plastics and Wire?

THE COURT: Yes.

THE WITNESS: No.

THE COURT: When -- when did you terminate your

actual connections with it?

THE WITNESS: In 1969.

THE COURT: I'll leave it with counsel to develop whatever circumstances there might be surrounding that. Proceed.

THE REPORTER: Excuse me, I have to change the tape.

THE COURT: You may change it.

(Whereupon, a short recess was taken to change the tape at 12:45.)

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BY MR. SOLOMON: (Resuming)

Q Mr. Kraut, do you know how much you were paid by the Cathederal of Tomorrow with respect to the sale of the shares of Nassau Plastics and Wire Corp?

A In total?

Q Yeah, total?

A Approximately $1,500,000.00.

Q You mean you were paid $1,500,000.00 --

A Half of it.

Q Half of it. Could you tell me what Nassau Plastics and Wire Corp. Company, a division of the Cathederal of Tomorrow earned during that period of time?

A Approximately $2,000,000.00.

MR. SOLOMON: Thank you, I have no more questions, Your Honor.

CROSS EXAMINATION BY

MR. WELSH:

Q Mr. Kraut, were you President of Trio Wire and Cable Corporation?

A That's correct.

Q And, that was located at 212 Meserole Avenue?

A Correct.

Q And, were you an officer of Nassau Wire and Plastics Corporation?

A No.

Q Didn't you sign the contract as vice president?

A I don't recall that.

Q Exhibit 5-E. Maybe I can show that to you.

A Well, if you will refresh my memory, I'd be happy to see it.

Q You did sign it.

THE COURT: The Exhibit speaks for itself.

BY MR. WELSH: (Resuming)

Q Well, were you involved with the production management of Trio Wire and Cable?

A Yes.

Q And, were you also the internal officer manager?

A I?

Q Yes.

A No.

Q And, did you hold the same position -- the position as production manager for Nassau Wire and Plastics?

A Yes.

Q And, were there any employees of Nassau Wire and Plastic in the first year of its operation, July of 1965 to June of 1966?

A Yes.

Q And, who were they?

A I don't recall their names.

THE COURT: After the sale of the stock, or disposition of the stock, in Nassau Plastics and Wire Corporation, did the operation continue as before?

THE WITNESS: Yes.

THE COURT: With the same personnel at the same place?

THE WITNESS: Yes, maybe more personnel.

THE COURT: But, it continued at the same geographical location?

THE WITNESS: Correct.

THE COURT: With the same equipment?

THE WITNESS: Correct.

THE COURT: With the same people plus perhaps some additional personnel as the needs of the business increased?

THE WITNESS: Correct.

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BY MR. WELSH: (Resuming)

Q The tax return for Nassau Wire and Plastics for its first year of operation does not show the payment of any rents for leased equipment which you said was leased, was there a lease, did they lease any equipment for that first year?

A Yes.

Q I have served you with a subpoena, is that correct?

A That's right.

Q Asking you to bring all documents and records regarding the Nassau Plastic and Wire and the sale?

A Right.

Q And, do you have any of those documents?

A No, because the Cathederal of Tomorrow has that.

Q But didn't you keep the books and records of the corporation?

A No, I did not. I did not.

Q The books were not audited here in New York?

A Whatever we had was given to the Cathederal of Tomorrow, they have all the records, everything that was there is theirs.

Q Did you operate and run the business in New York State?

A Yes.

Q At 212 Meserole?

A At 208 Meserole.

THE COURT: But you have the books and the records of Trio Wire and Cable Corporation, do you not?

THE WITNESS: I don't have them, the parent company of Trio Wire and Cable has those.

THE COURT: Well, are you connected with Trio Wire and Cable Corporation today?

THE WITNESS: Yes.

THE COURT: Do you have access to their books and records?

THE WITNESS: I haven't got a right to take them, they are not mine.

THE COURT: Do you have access in a sense that you can look at them?

THE WITNESS: I suppose so.

THE COURT: Are you an officer of this corporation?

THE WITNESS: Yes.

MR. SOLOMON: Your Honor, I have informed counsel for the Government that those books and records are in the control of Larabee Wire, who owns Trio Wire and Cable, and they are readily available to be gotten from Larabee Wire. Mr. Kraut does not own any stock in Trio Wire and CAble.

THE COURT: What is Larabee Wire?

THE WITNESS: They're a manufacturing concern in the copper area.

MR. SOLOMON: They are a publically owned company, sir.

THE COURT: When did you and your brothers sell your stock in Trio Wire and Cable Corporation to Larabee?

THE WITNESS: In 1969.

THE COURT: And, did you and your brother continue as officers in Trio after the sale?

THE WITNESS: Yes.

THE COURT: So, that its business is conducted under your control?

THE WITNESS: Ah -- we conduct the business but we don't control it. We can't make decisions.

THE COURT: Who is the President and whose the Vice --

THE WITNESS: I'm the President, and my brother is the Vice President.

THE COURT: But you have immediate control over the books.

THE WITNESS: I have no right to remove them from the premisis.

THE COURT: I'm not asking you whether you can -- whether you have a right to remove them. You have a right to inspect them, if not you would be a strange President, I

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would think.

THE WITNESS: I don't know how to answer that, Your Honor. I mean -- these are not my books and records anymore, and how can I go and just take them out of the -- off the premisis?

THE COURT: They are the books and records of the corporation, I take it?

THE WITNESS: Yeah, but it is not --

THE COURT: Is there still an entity known as Trio Wire and Cable Corporation?

THE WITNESS: Yes.

THE COURT: And the stock is owned by Larabee?

THE WITNESS: That's correct.

THE COURT: There is no change in the corporate shell, I take it, simply a change who the stockholders of the corporation were?

THE WITNESS: What is now a division of a publically held company.

MR. SOLOMON: Your Honor, if I may, it is a newly -- a newly formed corporation, Trio Wire and Cable as Mr. Kraut knew it has been liquidated and dissolved.

THE COURT: Well, that's your statement, but not evidence.

MR. SOLOMON: Yes. It is a matter of record, sir.

THE COURT: But not in this Court, yet. At any rate, the books of that corporation, I take it would show what rents were received from Nassau Plastics and Wire Corporation?

THE WITNESS: I -- I imagine it would, yes.

BY MR. WELSH: (Resuming)

Q Do you know what the date was of the sale of Trio Wire?

A Just 1969, I don't know the exact date.

Q When was the last date you received payments from the Cathederal of Tomorrow?

A I don't know that either. I don't have that, but it is in the record somewhere, I -- I just don't have it here.

Q You are not receiving payments now?

A No.

Q And, you haven't since 1969?

A If that -- if that's what it was, that's what it was. I just don't remember, I'm not trying to hide anything, but you have it in the records.

THE COURT: Was a new corporation organized to carry on the business of Nassau Plastics and Wire Corporation?

THE WITNESS: No.

THE COURT: After the so-called sale to the

Cathederal of Tomorrow?

THE WITNESS: No.

THE COURT: Well, how did it operate then?

THE WITNESS: I don't understand --

THE COURT: Was it -- was it operated as an unincorporated business?

THE WITNESS: Oh, you mean after you sold it to --

THE COURT: After the so-called sale to the Cathederal of Tomorrow?

THE WITNESS: No, it -- it operated -- gee, I don't know under what, it operated under Nassau Plastics and Wire. I don't know how they changed the status of it, because I just wasn't familiar with these things.

THE COURT: As I understood the materials that were stipulated, Nassau Plastics and Wire Corporation, which was the subject of the so-called sale, was to be liquidated. Ah -- page 3, of Exhibit 5-E, seems to state that the buyer shall take all such action as may be required so that as of June 25, 1966, Nassau Plastics shall be liquidated and all of its assets distributed to the buyer, the buyer being Cathederal of Tomorrow, and then there are further down on that page, ah -- there is a statement that the buyer shall take steps forthwith to accomplish the following, namely to create a separate operating manufacturing

unit owned by the buyer to be denominated and known as Nassau Plastic.

Now, was there a new corporation organized under the same name?

THE WITNESS: That could very well be, I am not familiar with that type of thing.

THE COURT: Well, counsel -- both counsel -- if counsel for both sides know, they may so stipulate.

MR. GOLDBERG: Your Honor, we would like to -- one of the Government's intended witnesses is the Reverand Rex Humbard, who is the head of the Cathederal of Tomorrow, and I hope that he will be able to tell us what happened to this corporation he reportedly purchased.

THE COURT: I had hoped that the parties are able to develop their facts before trial and they are not finding out what these facts are for the first time after the witnesses get on the witness stand.

MR. WELSH: Your Honor, we -- we are not sure -- the Respondent is not clear as to exactly what happened to the operation of Nassau Plastics and Wire after it was sold. The contract called for it to be liquidated, and for an operating company to be set up. This information was never completely clear. We have subpoenaed books and records from anybody who might have them, and we haven't received any -- from anybody. The Cathederal of Tomorrow says that they

do not have them. Mr. Kraut tells me that he does not have them.

THE COURT: All right, off the record.

(Whereupon, a brief off the record discussion was held at the bench.)

BY MR. WELSH: (Resuming)

Q Now, Mr. Kraut, Nassau Plastics and Wire you say it leased the equipment from Trio Wire.

A Yes.

Q How long was that lease for?

A I don't remember how long it was for, but -- I'm just trying to think -- I can't -- I just don't remember how long it took.

Q Did they negotiate a new lease in 1966?

A I can't answer that --

Q Would that --

A I don't know.

Q Would that have been -- fact, in the first lease?

A In -- no.

MR. WELSH: I would like to have a copy of the lease marked for identification as Respondent's Exhibit G.

THE CLERK: For identification Respondent's

** 357 Exhibit G.

BY MR. WELSH: (Resuming)

Q As an officer of Trio Wire and CAble, could you identify this as a copy of the lease between Trio Wire and Nassau Plastics and Wire Corporation?

(Pause.)

Q Possibly, if you would look at the signature page?

A Um-huh.

THE COURT: What was your answer?

THE WITNESS: Yes.

MR. WELSH: Your Honor, I show a copy of this Exhibit to the Petitioner's counsel.

THE COURT: Are you offering it into evidence.

MR. WELSH: And, I am now going to offer it into evidence.

THE COURT: Is there any objection?

MR. SOLOMON: No objection.

** 400 THE COURT: Admitted.

THE CLERK: Respondent's Exhibit G.

THE COURT: Off the record.

(Whereupon, a brief off the record discussion was held at the bench.)

MR. WELSH: Well, Your HOnor, we have further questions on cross -- for cross examination, but I think that this would be an appropriate time to break.

THE COURT: Very well, we'll recess until

2:00 o'clock.

THE CLERK: All rise.

THE COURT: Off the record.

(Whereupon, the hearing in the above was recessed at 1:05 p.m., as described above.)

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AFTERNOON SESSION

BY MR. WELSH: (Resuming)

Q Mr. Kraut, in the contract, which was dated June of 1966, June 25th, 1966, paragraph B on page 5 of the contract calls for a purchase price to be paid in the following manner, and it sets forth in paragraph B, $50,000.00 on or before August 1st, 1966, did you receive that $50,000.00 on or before August 1st, 1966?

A Yes. I think that I did.

Q In what manner did you receive it?

A By check.

MR. WELSH: Your Honor, I would like to have two documents marked for identification. Mark this as Respondent's Exhibit H.

THE CLERK: For identification, Respondent's

** 442 Exhibit H.

BY MR. WELSH: (Resuming)

Q Mr. Kraut, could you identify your brother, Harry's signature, and is that his signature on those checks?

A Yes.

Q And, who are the checks made out to?

A The Cathederal of Tomorrow.

Q And, are there two checks?

A Yes.

Q Of what amounts are they made out in?

A $25,000.00 each.

Q What is the endorsement on the back?

A Pay to the order of Marion Kraut, pay to the order of Iris Kraut.

MR. WELSH: Your Honor, I will give a copy of Exhibit H to the Petitioner's counsel, and move that this be admitted as Exhibit H.

MR. SCHEINFELD: May we see it?

MR. WELSH: Yes.

(Pause.)

THE COURT: Is there any objection?

MR. SOLOMON: Your HOnor, I -- I don't know what this is. Counsel hasn't said anything about it. I object on that grounds.

MR. WELSH: Your Honor, the Petitioner has identified the checks, and I have placed it in evidence, and I hope to at some point later in the trial to bring about the relevancy of the checks. I think -- it is a check going from the Petitioner to the Cathederal of Tomorrow, maybe you could explain --

THE COURT: You don't mean from the Petitioner?

MR. WELSH: The checks are signed by -- by one of the Petitioners, Harry Kraut.

THE COURT: This is your theory here that the

$50,000.00 called for on page 5 of the contract, namely Exhibit 5-E, was actually paid for with funds out of the corporation out of Nassau Plastics and Wire Company, and it in effect made a round trip back to the stockholders?

MR. WELSH: Yes, Your Honor, I hope to adduce testimony from this witness or from later witnesses to prove that point.

MR. SOLOMON: I object to the admission of this. This is a check from the Cathederal -- from Nassau Plastics and Wire Company, which was a division of the Cathederal of Tomorrow, the check is made out to the Cathederal of Tomorrow, and payment to the Petitioners, Iris and Marion Kraut. And, it is all right if you want to receive it, I don't know what it is for, but that's what this check indicates to me.

THE COURT: I will receive it in evidence, and I will leave it up to counsel to establish the connection of this Exhibit with this case.

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THE CLERK: Respondent's Exhibit H.

MR. WELSH: Thank you, Your Honor.

BY MR. WELSH: (Resuming)

Q Mr. Kraut, you were the production manager for Nassau Plastics and Wire, how long did it continue in business?

A From 1965 to 1969.

Q And, when did it stop business?

A Sometime in 1969.

Q And, did it have any net profits in 1968?

MR. SOLOMON: I object, Your Honor, on the grounds that the year in consideration here is 1967, and I don't see what counsel is getting at.

THE COURT: The witness may answer.

THE WITNESS: If you will show me the tax records, I will know, I don't know off-hand.

BY MR. WELSH: (Resuming)

Q I don't have the tax record for the corporation, you were managing that corporation, do you know if it had any net profit in that year?

A I'm not sure.

Q Did it have any net profit in 1969?

A I'm not sure of that either.

Q When you sold Trio Wire in 1969, did the assets which were subject to a lease, which is the Respondent's Exhibit G, did those go with Trio Wire to Larabee Wire?

A The assets?

Q Yes.

A Some of them did, yes.

Q Didn't they all go?

A Some of the tooling was discarded.

Q Did you keep it?

A I don't know what happened to it.

THE COURT: Well, did you sell assets to Larabee Wire or did you sell the stock of Trio to Larabee Wire?

THE WITNESS: We sold -- we -- I think that we sold the assets, the stock and the assets, if I am not mistaken.

THE COURT: Well, that doesn't make any sense, if you sold the stock, that's 100 percent of the stock --

THE WITNESS: I don't know.

THE COURT: And all of the assets that the corporation had, would simply go along with the corporation, did you sell stock?

THE WITNESS: I am not sure whether we sold the stock or the assets or a combination of both. If I could ask my attorney, I'll know.

THE COURT: You seem to be singularly uninformed about a business that you were theoretically running.

THE WITNESS: I was mostly on the production end there, Your Honor, and I didn't spend too much time with these things.

BY MR. WELSH: (Resuming)

Q But as of 1969, you were not producing any more of this Christmas Wire?

A Sometime in 1969, it stopped.

Q And, the Cathederal did not produce anymore

of this Christmas wire --

A I don't --

MR SOLOMON: Objection, Your Honor, the witness already answered that sometime in 1969 they stopped producing the Christmas wire. I don't know whether he could answer for the Cathederal.

THE COURT: If the witness knows, he may answer.

THE WITNESS: I don't know what the Cathederal did with Nassau Plastics and Wire, production stopped at 208 Meseroie Avenue on Christmas wire.

BY MR. WELSH: (Resuming)

Q Well, you were an employee of the Cathederal, you signed an employment agreement, right, pursuant to the contract?

A Yes.

Q So, you were running the business for the Cathederal, there wasn't anybody else running it, was there?

A My brother and I.

Q So you would know, if you stopped producing it, that was it, wasn't it?

A Yeah.

Q Okay.

THE COURT: Do you know why the business ceased?

THE WITNESS: Yes, it stopped making money.

MR. WELSH: Just one second, Your Honor.

(Pause.)

BY MR. WELSH: (Resuming)

Q Mr. Kraut, how did you make the sale projections, of $10,000,000.00 which you testified to earlier?

A By the amount of business that was coming in in 1966.

Q And, how did you know this, what did you have on hand to indicate that?

A A tremendous amount of orders.

(Pause.)

MR. WELSH: Your Honor, that concludes our questioning.

(Pause.)

MR. SOLOMON: I have just one question, Your Honor.

REDIRECT EXAMINATION BY

MR. SOLOMON:

Q Mr. Kraut, how many employees does it take to run an extruder?

A One.

Q And, how many employees are needed in the type of extruder Nassau Plastics and Wire Corp. ran with the tooling that it had?

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A One.

Q And, how many employees did it have?

A About six or seven.

Q What were they used for?

A They ran several shifts.

MR. SOLOMON: I have no other questions.

(Pause.)

MR. GOLDBERG: Your Honor, I would like to ask a couple of questions that were brought out on direct examination, but it does not particular pertain to the questions that were on redirect.

THE REPORTER: Could you stand over here?

MR. GOLDBERG: Yes.

RECROSS EXAMINATION BY

MR. GOLDBERG:

Q Mr. Kraut, when did you -- when did you first start to develop the Christmas wire?

A In 1965.

Q Was it done under the auspices of Nassau or the Christmas Wire Company?

A Nassau.

Q Nassau. Did you use any of the production techniques that were used in the prior corporation of Christmas -- at all?

A These were completely new techniques.

Q These were completely new techniques. There is a lease in evidence executed in June of 1966, from Trio for the one piece of equipment, I think at a fixed rate of $6,000.00 per year, prior to that time from June -- from July 1, of 1965 through May 31, 1966, whose equipment did you use to manufacture the wire?

A We were utilizing that piece of equipment that was leased.

Q The former lease was executed in June, and you were using it on a full basis prior to that point?

A I don't recall, but that machine was idle and we were utilizing it. Now, I don't know whether it was leased at that time or whether the lease that you have there is the one that was covering it, but we were utilizing that piece of equipment but using our own frame of tooling on it.

Q You stated in the record that you had projected sales of approximately $10,000,000.00, back in -- sometime in 1965 or 1966 for this particular wire --

A Profits.

Q Profits of $10,000,000.00, which would mean a higher -- which would mean approximately a substantial increase in the amount of sales, total volume to get that profit?

A That's correct.

Q How come all of a sudden, by 1969, or even before then, things sort of fell out of the market, the bottom dropped out?

A Well, that is very easily explained, the people who manufactured those sockets that were creating a tremendous amount of rejects improved their technique, improved their production quality, and most of all the customers began importing the type of wire -- the type of sets that they were manufacturing from Japan, cheaper than they could make it here themselves. So, the demand fell off considerably there too.

Q What were the two greatest years of volume in sales for Nassau? Would you say 1966 -- and 1967?

A 1967 I would say was the best, yes.

Q Was the best. And, after that things sort of went down rapidly?

A Yes.

Q And, when did you terminate your employment?

A We didn't, the Cathederal terminated it.

Q The Cathederal terminated your employment, is that when --

A It was sort of mutual, I suppose.

Q Mutual. What had happened, I guess the business sort of folded up?

A There was no -- no profits.

THE COURT: Were you replaced by somebody else?

THE WITNESS: I don't know what they did with the business, Your Honor.

THE COURT: Well, the business was conducted in the premisis adjacent to your Trio Corporation?

THE WITNESS: Yes, but all production stopped there.

THE COURT: All production stoppped at that address?

THE WITNESS: Right -- that's correct.

THE COURT: What assets, if any did it have left at that point?

THE WITNESS: Oh, just the tooling pretty much, that's all, everything was sold off.

THE COURT: What -- what was the tooling worth at that point?

THE WITNESS: Ah -- since it wasn't used anymore in this -- you know, it wasn't necessary to utilize this particular type of plastic, maybe $500.00, or $1,000.00, I don't know, maybe junk.

THE COURT: Trio continued to own the machine -- the basic machine?

THE WITNESS: Yes.

THE COURT: And, did Nassau have any other assets -- any tangible assets such as cash or -- ah --

or anything of that nature? Or substance?

THE WITNESS: I think that everything was liquidated, but I am not positive. There was nothing left when it was all over with. I don't recall now what happened to it. You are asking me something that I am not sure of.

THE COURT: Well, to the extent that you know, its assets were negligible at that point?

THE WITNESS: Yes. Yes.

BY MR. GOLDBERG: (Resuming)

Q At the time of the purported sale to the Cathederal of Tomorrow, I am looking at schedule L attached to the tax return for 1965, I don't --

THE COURT: Exhibit 3-C.

BY MR. GOLDBERG: (Resuming)

Q Exhibit 3-C, the only depreciable asset is an automobile, that carried on the corporation's tax return -- as $153.43, so the corporation had no fixed equipment, it was leasing the extruder you say from Trio --

A Right.

THE COURT: Where do you see this automobile, Mr. Goldberg?

MR. GOLDBERG: It would appear on the depreciation schedule, Your Honor, schedule G on page 2 of the return, at the bottom, -- the depreciation.

THE COURT: I see.

MR. GOLDBERG: That's the only tangible fixed asset.

THE COURT: And, that is shown with a cost basis of $2,181.00, and then on page 4 of Exhibit 3-C, line 8, there appears to be an identical figure, I take it that that was the automobile on the page 4?

THE WITNESS: I don't know, Your Honor.

THE COURT: What was the automobile used for?

THE WITNESS: I suppose for selling.

THE COURT: But it was not used in production?

THE WITNESS: No.

THE COURT: So, that the only item that was used in production was the extruder?

THE WITNESS: Yes.

THE COURT: And, that was owned by Trio?

THE WITNESS: Correct. Oh, the tooling besides.

BY MR. GOLDBERG: (Resuming)

Q Was the tooling owned by Trio?

A No.

Q Well, I don't see any assets -- depreciable tools and equipment here on the schedule of assets?

A It was there, I don't know -- you know, I didn't -- I don't know what the -- why it is not there. The tooling was there.

Q Who operated -- who owned the premisis of which

-- which you were operting out of?

A They were rented.

Q Rented. From whom?

A An Esther (phonetics) Hurwitz.

THE REPORTER: Could you spell that name, please?

THE WITNESS: H-u-r-w-i-t-z.

BY MR. GOLDBERG: (Resuming)

Q So, as I gather Nassau Wire had -- did not own the building in which they were manufacturing out of, and did not own machinery and equipment from which they were making the wire?

THE COURT: The witness is nodding his head in the affirmative.

THE WITNESS: Yes.

MR. GOLDBERG: Yes. I have no further questions.

FURTHER REDIRECT EXAMINATION BY

MR. SOLOMON:

Q One further question, Mr. Kraut, could -- could a leased machine operate as efficiently as an owned machine, and could it produce wire the same as this as if Nassau Plastics and Wire owned it?

A Absolutely.

Q Is a machine -- if Nassau Plastics and Wire decided to buy some machines as they went along, would there have been a problem in buying that type of machine, are they

unique in any way?

A None whatsoever.

MR. SOLOMON: No further questions.

MR. GOLDBERG: I have no further questions.

MR. SOLOMON: Your Honor, that's the Petitioner's case.

(Witness excused.)

MR. WELSH: We have one witness, he is just outside in the hall --

THE COURT: You may call him.

(Pause.)

MR. GOLDBERG: Your Honor, at this time the Respondent would like to call the Reverand Rex T. Humbard of the Cathederal of Tomorrow, as the Respondent's witness.

THE CLERK: Raise your right hand, please. You do solemnly swear that the testimony you are about to give to the Court in this case, shall be the truth, the whole truth, and nothing but the truth, so help you God?

THE WITNESS: I do.

THE CLERK: For the record, may we have your name?

THE WITNESS: Rex T. Humbard, H-u-m-b-a-r-d.

THE CLERK: And, your address, please?

THE WITNESS: 2700 State Road, Cuyahoga, C-u-y-a-h-o-g-a, Falls, Ohio.

R E X T . H U M B A R D, called as a witness on behalf of the Respondent, having been duly sworn, took the stand, and testified as follows:

DIRECT EXAMINATION BY

MR. GOLDBERG:

Q Reverand Humbard, would you please tell the Court what your profession is?

A I'm a minister and pastor of the Cathederal of Tomorrow, in Akron, Ohio.

Q And, what do your duties comprise?

A First of all, I pastor a church. Also I do a worldwide television program on more than 350 television stations. I also travel quite extensively in speaking and meetings throughout the United States and Canada. We also support a worldwide missionary program from the Cathederal of Tomorrow.

THE COURT: Can you state for the record what the Cathederal of Tomorrow is?

THE WITNESS: The Cathederal of Tomorrow is a religious corporation for the proclaiming of the gospel of Jesus Christ, located in Ohio, incorporated under the laws of Ohio, as a religious non-profit organization.

THE COURT: Does it have a membership?

THE WITNESS: Oh, yes. We have over 5,000 seats on one floor. We have eleven associate ministers. We have

Sunday school, youth groups, church, as any ordinary church, we are a little bit larger, but other than that why we televise the church service once each week on these television stations.

THE COURT: Thank you.

BY MR. GOLDBERG: (Resuming)

Q Reverand Humbard, I'm going to ask you some background questions surrounding this transaction, in particular. Who did you deal with in New York in arranging this sale?

A We had employed, with another transaction preceding this one, management methods here in New York, as our people who would take care of the organizations that we had from a business standpoint, legal standpoint.

Q And, what did management methods do for you?

A First of all they gave me legal advice, and second of all it took care of the business that was needed to be transacted, between our organization and these organizations that we had, our own.

Q I see. Prior to the deal involving Nassau Plastics and Wire, did you -- you said you had a prior dealing with management methods, what type of arrangement was that for?

A Well, we had been approached by Mattie Mattson in Cleveland, in regard to taking ownership and purchasing

the Real-Form Girdle Company, and it was located here in New York, so we needed someone who was on the scene to take care of our management organization when we purchased it, and at that time we employed Management Methods, and asked them to become our legal counsel, also to work with these organizations so that I could preach and they would run the business for us.

THE COURT: What is Management Methods?

THE WITNESS: Well, I don't know what all they do, but Management Methods for me was my legal counsel.

THE COURT: Was it a corporation?

THE WITNESS: I'm sure that it is, yes.

BY MR. GOLDBERG: (Resuming)

Q Who did you deal with in Management Methods?

A Mr. Eugene Cobert predominantly.

THE REPORTER: Could you spell it for the record, please?

THE WITNESS: Eugene, C-o-b-e-r-t.

THE REPORTER: Thank you.

BY MR. GOLDBERG: (Resuming)

Q Did Mr. Cobert arrange the -- the purchase by you of the girdle company?

A No, the arrangement was brought to me from a man named Mattie Mattson from Cleveland, but I needed New York counsel, and so we searched out, and found them to represent

us here.

Q And, when did Mr. Cobert come to you with the Nassau Plastics and Wire deal?

A I believe that this came into the picture in 1966, if I recall the year, I'm not positive, but I think it was --

Q Under what circumstances, do you remember?

A Well, they were already taking care of two other organizations for us. It was presented to us and came through them to us, because they were managing our organizations.

Q What was your understanding as to what Nassau Plastics and Wire was, what type of company was it?

A Well, Nassau Plastics and Wire was a manufacturing company, or the part that we were involved in was mainly distribution.

Q In distribution?

A Yes.

Q So in other words, you purchased in effect a sales company?

A A sales company, and a distributing company.

THE COURT: Now, let me see if I understand this. Did Mr. Cobert initiate the transaction as far as you were concerned?

THE WITNESS: Really, I can't -- I'm sorry,

not to be able to answer that specifically, I'm not sure that he originated it, but he already was employed by our organization to take care of two other companies we had. One was Real-Form Girdle, the other was the Unity Electronics, so when this came into the picture, naturally I relied upon him to look into this particular organization before we ever really got involved.

THE COURT: But, you say when this --

THE WITNESS: Because we had employed him to handle our organizations of this type.

THE COURT: Well, you used the word, when this came into the picture, what initiated it as far as you were concerned?

THE WITNESS: I'm sorry, I don't -- I really don't know who brought this, I do know that Mattie Mattson brought Real-Form Girdle, I'm not positive -- and he brought Unity Electronics, a Cleveland man, I'm not sure just who originated this, but I do know that I called upon Mr. Cobert just like I did with Unity when it came in the picture to look into it before we ever got too deeply involved. So, how it came about I really can't tell you.

BY MR. GOLDBERG: (Resuming)

Q Reverand Humbard, but you did not go directly to the Krauts, did you?

A No, my dealings was all through my counsel, which

was Eugene Cobert here in New York on all these companies.

Q Am I correct in assuming that he came to you with this particular transaction?

A I would say that he presented this to us in detail, because we asked for details before our trustees or anyone got involved.

Q All right. Was the contract terms in this particular case similar to the ones in other transactions that Mr. Cobert handled for you?

MR. SOLOMON: Objection, Your Honor, that's irrelevant and immaterial. We are talking about Nassau Plastics and Wire Corp. and I don't know what it has to do with any other matter.

THE COURT: If counsel can make anything out of it, I won't deprive him of the opportunity, the witness may answer it.

THE WITNESS: Would you restate your question, please?

BY MR. GOLDBERG: (Resuming)

Q Was the format -- the floor and ceiling price of $500,000.00 or $3,500,000.00 the same in this particular transaction as it was in the prior transactions?

A I would imagine that we would have to get the records from Mr. Cobert, which are available to really get specific details like you are talking about.

Q But, in the other transactions like this one, was there a range, an open floor and ceiling type of arrangement?

A You mean a minimum and a maximum price?

Q Yes.

A Yes, I'm sure that there was.

Q I see. Do you remember whether the Cathederal actually put any cash into this business in the sense of a downpayment or investment in any one of these -- in this particular business, the Nassau Plastics and Wire?

A I don't think that we invested a lot of cash in any of the organizations that we had, sir.

THE COURT: Did you invest anything in the Nassau Corporation?

THE WITNESS: Judge, I'm -- I might say that we invested some time or some attorney's fees or some management fees, before it came into existance, but I doubt very seriously that our organization advanced large amounts of cash for any of the --

THE COURT: Did you invest anything -- did you pay anything to the sellers?

THE WITNESS: Yes, sir, there was downpayments, but that downpayments I'm sure came from a portion of our profits. And, may I clarify that for you, in the case that I am familiar with the first one, for the simple reason that

there was a lot of research done on it, before we established the fact that we would even go into a negotiation of this kind, that a portion of our profits that we were to share in that first ten years went to the downpayment, in the original Real-Form Girdle Company, and I'm sure that this probably followed the same pattern. I would have to get the papers to look at it though to really search and see.

THE COURT: Well, the contract which was signed, and which is 5-E in evidence, provides on page 5 for a payment of $50,000.00 on or before August the 1st, 1966, and then for the balance to be paid periodically out of earnings. Did the $50,000.00 that was paid on August the 1st, 1966, come in any part from any free assets of the Cathederal or did it come rather from the assets of Nassau itself?

THE WITNESS: I would have to check that, but I would imagine, as my understanding is, Your Honor, that if we made a profit from this, we probably paid our downpayment from this too. That was the case in the original and I might also add --

THE COURT: This is not my question. My question is did any of that $50,000.00 come from any free assets of the Cathederal or did it rather come in some form or other out of the assets of Nassau?

THE WITNESS: It would have had to have come from profits, sir.

THE COURT: Of Nassau?

THE WITNESS: I'm sure that it would have to come from --

THE COURT: But, it did not come from -- from any free asset of the Cathederal?

THE WITNESS: I'm sure that it didn't.

THE COURT: In other words the Cathederal --

THE WITNESS: Because none of these --

THE COURT: In other words the Cathederal of itself, was not putting up any money towards the payment of the purchase price, other than funds that would have come from the corporation of itself, that was being acquired?

THE WITNESS: I'm sure that that would be the case, but I -- I can't say with Nassau, but I can say with Real Form, and it was the one that we researched.

THE COURT: Well, now the question here is -- I'm asking you about Nassau.

THE WITNESS: I would have to get the documents, and look, but I am sure that the Cathederal of Tomorrow did not contribute its contributions toward any of these business organizations, by donors, I mean people that donated gifts to the Cathederal of Tomorrow. These would have to stand upon their own two feet.

JA 125

MR. GOLDBERG: I would like to have marked, this letter of October 13, 1966, to mark it for identification as Respondent's Exhibit I.

THE CLERK: For identification, Respondent's

** 1037 Exhibit I.

BY MR. GOLDBERG: (Resuming)

Q Reverand Humbard, I show you a letter of October 13, 1966, written to you from Eugene Cobert forwarded to you, two checks for $25,000.00. I would like you to look at this letter, and see if this refreshes your recollection as to the payment -- the down payment? And, I call your attention to paragraph 2.

(Pause.)

MR. SCHEINFELD: Mr. Goldberg, do you have a copy of that letter?

MR. GOLDBERG: Yes, we offer it into evidence we would like --

THE WITNESS: Did you have a question, sir?

BY MR. GOLDBERG: (Resuming)

Q Yes, did you receive this letter from Mr. Cobert?

A Well, now in 1966 I have no recollection but I am sure that we must have received it, it is addressed to me, and I'm sure that it is in Mr. Cobert's files, and the files that we kept on these companies. I'm sure of that.

JA 126

Q And, didn't this letter transmit to you two $25,000.00 checks, and had you endorsed them over and turned them back to the shareholders of the Nassau Plastics and Wire Corporation?

A The letter states that, I have no recollection of it from 1966, so many things have happened, that our files should reveal whatever transpired.

MR. GOLDBERG: Your Honor, I would like to offer this into evidence as Respondent's Exhibit I.

MR. SOLOMON: Well, I object to the offering of this document. The Reverand doesn't remember receiving it, and it is a photocopy, and I don't think a proper foundation has been laid for that letter.

MR. GOLDBERG: Your Honor, this -- letter was written to the Reverand by Mr. Cobert --

THE COURT: Off the record, I would like to see counsel at the bench.

(Whereupon, the hearing in the above went off the record and was recessed as described above, at 3:15.)

Tape 10 gv

MR. GOLDBERG: I -- Your Honor, I would like to call Reverand Humbard back to the witness stand.

Pursuant to an agreement of the parties in your chambers, at this time the Respondent would like to offer into evidence Respondent's Exhibit I, a letter dated October 13th, 1966, from Eugene Cobert to Reverand Rex

Humbard, are there any objections?

MR. SOLOMON: No objections.

** 10 THE COURT: It will be received.

THE CLERK: Respondent's Exhibit I.

BY MR. GOLDBERG: (Resuming)

Q Reverand Humbard, who managed the business after the Cathederal took over the operations?

A Management Methods was employed and Eugene Cobert as legal counsel to manage the business.

Q And, the Krauts entered into employment agreements with the Cathederal of Tomorrow, also?

A I'm sure that a number of people, including them, to continue the business.

Q Fine. Did the Cathederal have any direct supervision over the business after they took it over, I mean, did you come to New York to discuss financial arrangements and production problems?

A Anytime that Eugene Cobert needed a decision on anything that wasn't already decided, we either -- one or more of our trustees came in, myself or one of the trustees to consult with him before anything was changed other than what had been laid out before.

Q What happened -- when did the business cease operating?

A I would have to check the records, sir, it -- like

I told you today, I haven't seen the records in years. To the best of my recollection, it was around 1969, though.

Q What happened to the assets of the business at that time?

A In the original agreement, if we were to dispose of it, it was to be sold to an outside party or revert back to the original owner.

Q Did it revert back to the original owner?

A I believe that it did.

THE COURT: There was testimony earlier that the assets were -- as I recall were minimal at the point that the business ceased operating, could you either confirm or --

THE WITNESS: When we --

THE COURT: Or qualify that, please?

THE WITNESS: Yes, when we went through the plant before we purchased it, it was taken raw wire and coating it, which was a very unusual procedure, I had never seen one like it, and it was coating this wire with whatever plastics that went on the outside of an electrical wire, and then in many cases, it twisted it into Christmas tree lights and things of that nature, that was the type of equipment that was in the plant.

THE COURT: Well, I am asking you whether at the time the business ceased operating, whether its assets

were anything other than nominal?

THE WITNESS: No, just the small equipment that we had in these buildings --

THE COURT: Was it of nominal value?

THE WITNESS: I -- I would say so.

THE COURT: Now, one more item of clarification, as to how the business functioned after the Cathederal acquired its interest under the so-called purchase arrangement of June, 1966. I think that you have testified that -- something about Management Methods, and Eugene Cobert being in charge, well were they in charge only in the sense that they were supervising the Krauts who continued to manage the business, the immediate men who continued to function in the immediate control and operation of the business?

THE WITNESS: My understanding of the way that this was supposed to operate, Mr. Cobert we had employed along with Management Methods to set up a management corporation, and he was to supervise it in our behalf.

THE COURT: But apart from the supervision, the actual running of the business, --

THE WITNESS: Was done by the management company. And, Cobert was to supervise the management company.

THE COURT: But, did the management company have personnel that were present at the plant on a continuous basis running this operation?

THE WITNESS: Yes, sir. This was a company that --

THE COURT: This was not my understanding of the testimony of Aaron Kraut. If the parties have other -- another view of this matter, I suggest that they place it before the Court.

MR. GOLDBERG: We have no futher witnesses, Your Honor. It is the Government's understanding based upon Mr. Kraut's testimony that he and his brother actually managed the business, under employment contracts that were executed between the Cathederal and themselves.

THE COURT: I would so tend to contrue the testimony, and -- and, -- ah -- I would treat it as consistent with this witness's testimony only in the sense that the management -- that the Management Methods outfit, whatever that was, and Mr. Eugene Cobert exercised a kind of supervisory power over the Krauts, but that the Krauts were themselves the persons who ran the business. Do you have any -- any basis at all for any judgment that this was not the case?

THE WITNESS: The only way that we could be engaged is to have proper people to run it, whether it was them or someone else, or we would not have accepted that responsibility.

THE COURT: And, by them you mean the Krauts?

THE WITNESS: Well,whoever Cobert saw that would run it. You must remember that we had other companies as well, and Cobert was employed to oversee them. One company employed over 400 people. We couldn't be directly involved. He was directly involved to see that the organization was run by whatever personnel could best run it. And, I would imagine that the people who had been manufacturing the wire,it would be rather foolish for us to get outside people who had never coated this wire, and never helped in the wire, so we wanted the best that we could get, if we had anything to do with it.

THE COURT: So, that the prior management was continuing as before, but under the supervision of Mr. Cobert and the organization that you referred to as Management Methods?

THE WITNESS: Yes, sir.

THE COURT: That's your understanding?

THE WITNESS: Yes, sir.

THE COURT: Thank you.

CROSS EXAMINATION BY

MR. SOLOMON:

Q Reverand, just one question, if I may, you stated in your testimony that you had occasion to visit the plant, and look at the manufacturing process, just a moment ago?

A Yes, we visited it before we agreed to go into a purchase of it.

Q Before you agreed to go into the purchase of Nassau Plastics and Wire Corp. stock, did you ever have occasion to discuss the potential of the business of Nassau Plastics and Wire?

A Potential -- in what --

Q Potential -- the production of income, sales, etc?

A Well, mainly this was presented to our Board of Trustees by Mr. Cobert.

Q And, based upon the presentation by Mr. Cobert, of a projection of whatever financial information he presented at that time, I assume income, profits and sales, your Board of Trustees consented to your acquisition of -- or voted to acquire Nassau Plastics and Wire Corp?

A Our Board of Trustees, none of us were paid, so the only thing that we are interested in was promulgating our gospel, our message, our youth groups, and things of this nature, so if this helped us in bettering our program of serving our local people, and our worldwide people, then we were interested, and when it was presented it looked like a good case for us, and that's why we accepted.

MR. SOLOMON: Thank you, no further questions.

MR. GOLDBERG: The Government has no further questions.

THE COURT: You may step down.

THE WITNESS: Thank you, sir.

(Witness excused.)

THE COURT: Is there any further evidence to be presented?

MR. GOLDBERG: The Government has not further evidence, Your Honor.

MR. SOLOMON: The Petitioners have no further evidence.

THE COURT: Very well, the case is submitted. And, I will ask for opening briefs in 45 days, and reply briefs 30 days thereafter.

MR. GOLDBERG: I request 60 days for opening briefs, Your Honor.

MR. SOLOMON: Oh --

MR. GOLDBERG: And, then 45 days for reply, if that's all right with the Court.

THE COURT: Well that's too long a period. Can the Petitioners get their briefs in in 45 days?

MR. SOLOMON: Yes, sir. We could get it in within 45 days.

THE COURT: Opening briefs in 45 days, reply briefs 30 days thereafter.

MR. GOLDBERG: Can the Clerk give us the dates, Your Honor?

THE COURT: The Clerk will give you the dates.

THE CLERK: One moment, please, Your Honor. Those dates, Your Honor, are December 27th, 1973, and January 28th, 1974.

MR. SOLOMON: Could you -- that was 12-27 --

THE CLERK: That's correct.

MR. SOLOMON: 1973.

THE CLERK: And, 1-28.

MR. SOLOMON: 1-28-1973.

THE COURT: Thank you, gentlemen, the Court is adjourned.

MR. SOLOMON: Thank you, Your Honor.

MR. GOLDBERG: Thank you, Your Honor.

(Whereupon, the hearing in the above was adjourned at 4:40 as described above.)

Stipulation of Facts

UNITED STATES TAX COURT

U. S. TAX COURT
FILED AT
NEW YORK CITY
NOV 12 1973
DOCKET

---X

AARON KRAUT and IRIS KRAUT,
HARRY KRAUT and MARION KRAUT,

Petitioners,

vs.

COMMISSIONER OF INTERNAL REVENUE,

Respondent.

---X

Docket Nos. 7663-70
7664-70

STIPULATION OF FACTS

The parties hereby stipulate and agree that for the purpose of this case the following facts and exhibits attached hereto and made a part hereof may be taken as true subject to the rights of the parties to introduce other and further evidence not inconsistent with this stipulation and preserving the parties' rights to object, at the time of trial, to any and all portions of said stipulation and attached exhibits, as they may deem to be irrelevant or immaterial.

1. The petitioners Aaron Kraut and Iris Kraut (Docket No. 7663-70) at the time of the filing of their joint federal income tax return for the year 1967, and at the time of the filing of the petition in the docket case, resided at 315 Virginia Avenue, Oceanside, New York. The aforesaid return was timely filed with the District

Director of Internal Revenue for the Brooklyn, New York District. A copy of said return is attached hereto as Exhibit 1-A.

2. The petitioners Harry Kraut and Marion Kraut (Docket No. 7664-70) at the time of the filing of their joint federal income tax return for the year 1967, and at the time of the filing of the petition in the docket case, resided at 56-07 Fresh Meadow Lane, Flushing, New York. The aforesaid return was timely filed with the District Director of Internal Revenue for the Brooklyn, New York District. A copy of said return is attached hereto as Exhibit 2-B.

3. Nassau Plastics and Wire Corp. (hereinafter referred to as Nassau Corp.) was incorporated in the State of New York in 1965. A timely federal income tax return was filed for the taxable year ending June 30, 1966. A copy of said return is attached hereto as Exhibit 3-C.

4. As of June 1966, the total shares of stock of Nassau Corp. were owned by two of the petitioners as stockholders as follows

	Common stock no par value
Iris Kraut	100 shares
Marion Kraut	100 shares

5. The Cathedral of Tomorrow, Inc. (hereinafter referred to as the Cathedral), during all of the years in question herein, was and is a non-profit corporation with offices at Cuyahoga Falls,

Ohio. Said corporation is an exempt organization under the provisions of Section 501(c)(3) of the Internal Revenue Code of 1954.

6. On May 31, 1966, petitioners Marion Kraut and Iris Kraut (hereinafter referred to as shareholders) entered into a contract with Wilson Mold & Die Corp. (hereinafter referred to as Wilson). A copy of said contract is attached as Exhibit 4-D.

7. On June 15, 1966, the Cathedral, as assignee of Wilson, and the shareholders executed an agreement for the sale of the capital stock of Nassau Corp. A copy of said contract is attached as Exhibit 5-E. The respondent, by this stipulation, does not agree that a sale of the capital stock of Nassau Corp. occurred pursuant to the agreement. 8. On June 25, 1966, the capital stock of Nassau Corp. was transferred to the Cathedral in accordance with the aforementioned agreement, and Harry Kraut and Aaron Kraut signed employment agreements with the Cathedral. Copies of said agreements are attached as Exhibits 6-F and 7-G, respectively.

9. Pursuant to the aforementioned agreement, the Cathedral made payments to the shareholders in the amount of $147,500 in the year 1966. Each of the shareholders reported the 1966 collections on their 1966 United States income tax returns under the installment method. The collections of the sales price in 1966 of $147,500 less expenses of $8,837.50, which were primarily brokers' commissions, were reported by each shareholder in the amount of $69,331.25 as a long term capital gain.

10. In 1967, pursuant to the aforementioned agreement, the Cathedral made payments to the shareholders in the amount of $1,268,275. After deducting expenses, which were primarily brokers' commissions, each shareholder reported on their 1967 United States income tax returns the receipt of the net amount of $606,416.47 as a long term capital gain.

11. Upon the merger of Nassau Corp. with the Cathedral, Article Third of the aforementioned contract, called for the creation of a separate "operating unit or company" referred to as Nassau Plastic & Wire Company; said operating unit was the successor to the business of Nassau Corp.

12. Each of the petitioners filed his United States tax returns using the cash basis method of accounting.

Counsel for Petitioners

Meade Whitaker
Chief Counsel
Internal Revenue Service

Petitioners' Exhibit 1-A

(JA 139)

Form 1040 U.S. Individual Income Tax Return

U.S. Treasury Department, Internal Revenue Service

for the year January 1–December 31, 1967, or other taxable year beginning ....., 1967, ending ....., 19.....

1967

Please print or type

First name and initial (If joint return, use first names and middle initials of both)	Last name	Your social security number
AARON AND IRIS	KRAUT	087 18 0777
Home address (Number and street or rural route) 315 VIRGINIA AVE.		**Your occupation**
City, town or post office, and State OCEANSIDE NY **ZIP code** 11572		**Spouse's social security number** 103 20 0708
Enter below name and address used on your return for 1966 (if same as above, write "Same"). If none filed, give reason. If changing from separate to joint or joint to separate returns, enter 1966 names and addresses. SAME		**Spouse's occupation**

Your present employer and address

Spouse's present employer and address, if joint return

Your Filing Status—check only one:

- 1a ☐ Single
- 1b ☑ Married filing joint return (even if only one had income)
- 1c ☐ Married filing separately. If spouse is also filing a return, enter her (his) social security number in space provided above and give first name here .....
- 1d ☐ Unmarried Head of Household
- 1e ☐ Surviving widow(er) with dependent child

Your Exemptions

	Regular	65 or over	Blind	Enter number of boxes checked ▶
2a Yourself . . .	☑	☐	☐	2
2b Spouse . . .	☑	☐	☐	

3a First names of your dependent children who lived with you TERRI, ELLEN, KATHI — Enter number ▶ 3

3b Number of other dependents (from page 2, Part I, line 3) 1

4 Total exemptions claimed . . . . . ▶ 6

Please attach Copy B of Form W-2 here

Income If joint return include all income of both husband and wife	5	Wages, salaries, tips, etc. If not shown on attached Forms W-2 attach explanation	5	33800 00
	6	Other income (from page 2, Part II, line 8)	6	39 51 11
	7	Total (add lines 5 and 6)	7	43631 11
	8	Adjustments to income (from page 2, Part III, line 5)	8	
	9	Total income (subtract line 8 from line 7)	9	43631 11
Find tax from table —OR— Figure tax using tax rate schedules	10	If you do not itemize deductions and line 9 is less than $5,000, find your tax from tables in instructions. Do not use lines 11a, b, c, or d. Enter tax on line 12.	10	
	11a	If you itemize deductions, enter total from page 2, Part IV, line 17. If you do not itemize deductions, and line 9 is $5,000 or more enter the larger of: (1) 10 percent of line 9; OR (2) $200 ($100 if married and filing separate return) plus $100 for each exemption claimed on line 4, above. Deduction under (1) or (2) limited to $1,000 ($500 if married and filing separately).	11a	4101 68
	11b	Subtract line 11a from line 9	11b	38590 43
	11c	Multiply total number of exemptions on line 4, above, by $600	11c	3600 -
	11d	Subtract line 11c from line 11b. Enter balance on this line. (Figure your tax on this amount by using tax rate schedule on page 11 of instructions.) Enter tax on line 12.	11d	38190 43
Your Tax, Credits, and Payments	12	Tax (from either Tax Table, see line 10, or Tax Rate Schedule, see lines 11a–11d) ALT	12	18353 54
	13	Total credits (from page 2, Part V, line 4)	13	
	14a	Income tax (subtract line 13 from line 12)	14a	
	14b	Tax from recomputing prior year investment credit (attach statement)	14b	
	15	Self-employment tax (Schedule C-3 or F-1)	15	
	16	Total tax (add lines 14a, 14b, and 15)	16	18353 54
	17	Total Federal income tax withheld (attach Forms W-2)	17	3489 00
	18	Excess F.I.C.A. tax withheld (two or more employers—see page 5 of instr.)	18	519 20
	19	☐ Nonhighway Federal gasoline tax—Form 4136, ☐ Reg. Inv.—Form 2439	19	
	20	1967 Estimated tax payments (Include 1966 overpayment allowed as a credit)	20	13100 0 -
	21	Total (add lines 17, 18, 19, and 20)	21	13500 8 40
Balance Due or Refund	22	If payments (line 21) are less than tax (line 16), enter Balance Due. Pay in full with this return	22	4814 5 14
	23	If payments (line 21) are larger than tax (line 16), enter Overpayment	23	
	24	Amount of line 23 you wish credited to 1968 Estimated Tax	24	
	25	Subtract line 24 from 23. Apply to: ☐ U.S. Savings Bonds, with excess refunded or ☐ Refund only	25	

Please attach Check or Mo. order here

Under penalties of perjury, I declare that I have examined this return, including accompanying schedules and statements, and to the best of my knowledge and belief it is true, correct, and complete. If prepared by a person other than taxpayer, his declaration is based on all information of which he has any knowledge.

Sign here

Your signature — Date

Spouse's signature (If filing jointly, BOTH must sign even if only one had income)

Signature of preparer other than taxpayer — Date

Address

o59—16—70223-1

Part I Exemptions Complete only for dependents claimed on line 3b, page 1

(a) NAME (If more space is needed attach schedule)	(b) Relationship	(c) Months lived in your home. If born or died during year write "B" or "D"	(d) Did dependent have income of $600 or more?	(e) Amount YOU furnished for dependent's support, if 100% write "ALL"	(f) Amount furnished by OTHERS including dependent.
1 SARAH LEIBERMAN	MOTHER		NO	$ ALL	$
2					

3 Total number of dependents listed above. Enter here and on page 1, line 3b . . . . . ▶ 1

Part II Income from sources other than wages, etc.

1a Gross dividends and other distributions on stock (list payers and amounts—write (H), (W), (J), for stock held by husband, wife, or jointly)

(H) BROOKWOOD ASS. 36 53
(J) SCHEDULE 8057 43

Total line 1a . . . . . ▶			8093 96
1b Exclusion (see instructions).	200 -		
1c Capital gain distributions (see page 6 of instructions).			
1d Nontaxable distributions (see page 6 of instructions).	475 v -		
1e Total (add lines 1b, 1c, and 1d)			475 v -
1f Taxable dividends (line 1a less line 1e—not less than zero) . . . . . ▶			3141 96

Interest (list payers and amounts below)

Earnings from savings and loan assoc. and credit unions.

SAV BANKS + S/L ASS 1V 507 4V
N.P.W CO 27 7V 0. 53

Other interest (banks, bonds, tax refunds, etc.)
BANKERS TRUST 339.04

2 Total interest income . . . . . ▶	40 567	79
3 Pensions and annuities, rents and royalties, partnerships, estates or trusts, etc. (attach Sch. B) .	(2983	v9)
4 Business income or loss (attach Schedule C) . .		
5 Sale or exchange of property (attach Schedule D) .	351 786	15
6 Farm income or loss (attach Schedule F) . . .		

Miscellaneous income (state nature and source)

7 Total miscellaneous income . . . . ▶		
8 TOTAL (add lines 1f, 2, 3, 4, 5, 6, and 7). Enter here and on page 1, line 6. . . ▶	39 v 51 v	11

Part III Adjustments to income

1 "Sick pay" if included in line 5, page 1 (attach Form 2440 or other required statement) .		
2 Moving expenses (attach Form 3903) . .		
3 Employee business expense (attach Form 2106 or other statement)		
4 Payments by self-employed persons to retirement plans, etc. (attach Form 2950SE) .		
5 TOTAL ADJUSTMENTS (lines 1 through 4). Enter here and on page 1, line 8 . . ▶		

Part IV Itemized deductions—Use only if you do not use tax table or standard deduction.

Medical and dental expense (not compensated by insurance or otherwise)—Attach itemized list.

1 One-half (but not more than $150) of insurance premiums for medical care . .		
2 Total cost of medicine and drugs . . .		
3 Enter 1% of line 9, page 1		
4 Subtract line 3 from line 2 (not less than zero)		
5 Other medical, dental expenses (include balance of insurance premiums for medical care not deductible on line 1) . . .		
6 Total (add lines 4 and 5)		
7 Enter 3% of line 9, page 1		
8 Subtract line 7 from line 6 (not less than zero) .		
9 Total (add lines 1 and 8) . . . . . ▶		

Contributions.—Cash—including checks, money orders, etc. (itemize)

VARIOUS RECOGNIZED CHARITIES

10 Total cash contributions	V100	-
11 Other than cash (see instructions for required statement). Enter total of such items here .		
12 Carryover from prior years (see page 8 of instr.)		
13 Total contributions (add lines 10, 11, and 12—see instructions for limitation) ▶	V100	-
Taxes.—Real estate	1336	33
State and local gasoline		
General sales (see page 15 of instructions) .	300	-
State and local income	3674	96
Personal property		
14 Total taxes . . . . . ▶	38 38 v	V1
Interest expense.—Home Mortgage . . .	539.	39
Other (itemize)		
15 Total interest expense . . . . . ▶	539	39
Miscellaneous deductions.—(see page 9 of instructions)		
16 Total miscellaneous . . . . . ▶		
17 TOTAL DEDUCTIONS (add lines 9, 13, 14, 15, and 16). Enter here and on page 1, line 11a. ▶	41 0v1	68

Part V Credits

1 Retirement income credit (Schedule B) .		
2 Investment credit (Form 3468)		
3 Foreign tax credit (Form 1116)		
4 TOTAL CREDITS (for page 1, line 13) . ▶		

EXPENSE ACCOUNTS—If you had an expense allowance or charged expenses to your employer, check here ☐ and see page 7 of instructions.

☆ U.S. GOVERNMENT PRINTING OFFICE: 1967—O-260-001

650—16—70333-1

NAME AARON AND IRIS KRAUT

ADDRESS

Taxable Year Ended 1967

SCHEDULE OF PARTNERSHIP INCOME:						
BROOKWOOD ASSOC.	(1	17)				
CHRISTINE STABLES	(298	12)				
TOTAL	(283	29)				
SCHEDULE OF DIVIDENDS:	TOTAL		CAP GAIN		NON-TAX	
SHERATON	2	50				
U.S SMELT	12	-				
E.W. BLISS	687	50				
CON-ED	49	50			475	-
A.T.T	50	-				
REVERE	37	5				
TWENTIETH CENT	10	-				
COBURN	1	50				
LEESONA	100	--				
MANHATTAN FUND	349	93				
TOTAL	805	43			475	00
SCHEDULE OF INSTALLMENT SALE						
1967 COLLECTIONS	638	59	17			
TAXABLE 100%	638	59	17			
EXPENSE OF COLLECTION	31	50				
NET LTCG	606	41	67			

JA 142

SCHEDULE D (Form 1040)
U.S. Treasury Department
Internal Revenue Service

Gains and Losses From Sales or Excnanges of Property

Attach this schedule to your income tax return, Form 1040

1967

Name and address as shown on page 1 of Form 1040
AARON AND IRIS KRAUT

Part I—CAPITAL ASSETS—Short-term capital gains and losses—assets held not more than 6 months

a. Kind of property. Indicate security, real estate, or other (Specify)	b. Description (Examples: 100 sh. of "Z" Co., 2 story brick, etc.)	c. How acquired. Enter letter symbol (See instr.)	d. Date acquired (mo., day, yr.)	e. Date sold (mo., day, yr.)	f. Gross sales price	g. Depreciation allowed (or allowable) since acquisition	h. Cost or other basis, cost of subsequent improvements (if not purchased, attach explanation) and expense of sale	i. Gain or loss (f plus g less h)
1					SCHEDULE			6703.34

2 Enter your share of net short-term gain (or loss) from partnerships and fiduciaries 5594
3 Enter unused short-term capital loss carryover from preceding taxable years (attach statement) . . . . . .
4 Net short-term gain (or loss) from lines 1, 2, and 3 . . . . . • 672928

Long-term capital gains and losses—assets held more than 6 months (12 months or more for certain livestock)

5 Enter gain from Part II, line 3 . . . . . .

						SCHEDULE		838560
		INSTALLMENT SALE				SCHEDULE		606416.67

Total long-term gross sales price . .

6 Enter the full amount of your share of net long-term gain (or loss) from partnerships and fiduciaries . . . . . (153.53)
7 Enter unused long-term capital loss carryover from preceding taxable years (attach statement) . . . . . .
8 Capital gain dividends (see Form 1040 Instructions, page 6) . . . . . .
9 Net long-term gain (or loss) from lines 5, 6, 7, and 8 . . . . . • 690113.75
10 Combine the amounts shown on lines 4 and 9, and enter the net gain (or loss) here 696843 03
11 If line 10 shows a GAIN—Enter 50% of line 9 or 50% of line 10, whichever is smaller. (Enter zero if there is a loss or no entry on line 9.) (See reverse side for computation of alternative tax.) 345056 88
12 Subtract line 11 from line 10. Enter here and in Part IV, line 1, on reverse side 351786 15
13 If line 10 shows a LOSS—Enter here and in Part IV, line 1, the smallest of the following: (a) the amount on line 10; (b) the amount on page 1, line 11b, Form 1040, computed without regard to capital gains and losses; or (c) $1,000 . . •

Part II—GAIN FROM DISPOSITION OF DEPRECIABLE PROPERTY UNDER SECTIONS 1245 AND 1250—assets held more than 6 months (see instructions for definitions)

D

Where double headings appear, use the first heading for section 1245 and the second heading for section 1250.

a. Kind of property and how acquired (if necessary, attach statement of descriptive details not shown below—write 1245 or 1250 to indicate type of asset)	b. Date acquired (mo., day, yr.)	c. Date sold (mo., day, yr.)	d. Gross sales price	e. Cost or other basis, cost of subsequent improvements (if not purchased, attach explanation) and expense of sale
1				

f. Depreciation allowed (or allowable) since acquisition		g. Adjusted basis (e less sum of f-1 and f-2)	h. Total gain (d less g)	i. Ordinary gain (lesser of f-2 or h) OR (see instructions)	j. Other gain (h less i)
f-1. Prior to January 1, 1962 OR Prior to January 1, 1964	f-2. After December 31, 1961 OR After December 31, 1963				

2 Total ordinary gain. Enter here and in Part IV, line 2, on reverse side . . . . . •
3 Total other gain. Enter here and in Part I, line 5; however, if the gains do not exceed the losses when this amount is combined with other gains and losses from section 1231 property enter the total of column j in Part III, line 1 . .

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Part III—PROPERTY OTHER THAN CAPITAL ASSETS

a. Kind of property and how acquired (if necessary, attach statement of descriptive details not shown below)	b. Date acquired (mo., day, yr.)	c. Date sold (mo., day, yr.)	d. Gross sales price	e. Depreciation allowed (or allowable) since acquisition	f. Cost or other basis, cost of subsequent improvements (if not purchased, attach explanation) and expense of sale	g. Gain or loss (d plus e less f)
1 Enter gain from Part II, line 3						
2 Enter your share of partnership and fiduciary gain (or loss) from property other than capital assets						
3 Net gain (or loss) from lines 1 and 2. Enter here and in Part IV, line 3						

Part IV—TOTAL GAINS OR LOSSES FROM SALE OR EXCHANGE OF PROPERTY

1 Net gain (or loss) from Part I, line 12 or 13	351786.15
2 Total ordinary gain from Part II, line 2	
3 Net gain (or loss) from Part III, line 3	
4 Total net gain (or loss), combine lines 1, 2, and 3. Enter here and on page 2, Part II, line 5, Form 1040	351786 15

COMPUTATION OF ALTERNATIVE TAX—It will usually be to your advantage to use the alternative tax if the net long-term capital gain exceeds the net short-term capital loss, or if there is a net long-term capital gain only, and you are filing (a) a separate return with taxable income exceeding $26,000, or (b) a joint return, or as a surviving husband or wife, with taxable income exceeding $52,000, or (c) as a head of household with taxable income exceeding $38,000.

1 Enter the amount from page 1, line 11d, Form 1040	381690.43
2 Enter amount from Part I, line 11, on reverse side	345056 88
3 Subtract line 2 from line 1	36633 55
4 Enter tax on amount on line 3 (use applicable tax rate schedule on page 11 of Form 1040 instructions)	10655.10
5 Enter 50% of line 2	172528 44
6 Alternative tax (add lines 4 and 5). If smaller than the tax figured on the amount on page 1, line 11d, Form 1040, enter this alternative tax on page 1, line 12, Form 1040 and write "Alternative" to left of entry	183183.54

INSTRUCTIONS (Continued from reverse side of original)

Column i of Part II, section 1250 property only.—If held for more than 6 months, but not more than 1 year, enter the smaller of (1) column h, or (2) column f-2.

If held for more than 1 year, enter the result of multiplying the smaller of (1) column h, or (2) column f-2 less the amount of depreciation computed for the same period using the straight line method, by the percentage obtained by subtracting from 100%, one percentage point for each full month held in excess of 20 months.

Where substantial improvements have been made within the preceding 10 years, see section 1250(f).

Basis.—In determining gain or loss use cost, except as specially provided. The basis of property acquired by gift after December 31, 1920, is the cost or other basis to the donor in the event of gain, but, in the event of loss, it is the lower of either such donor's basis or the fair market value on date of gift. If a gift tax was paid with respect to property received by gift, see section 1015(d). Generally, the basis of property acquired by inheritance is the fair market value at the date of death. For special cases involving property acquired from a decedent, see section 1014.

Installment sales.—If you sold personal property for more than $1,000 or real property regardless of amount, you may be eligible to report any gain under the installment plan if (1) there is no payment in the year of sale, or (2) the payments in the year of sale do not exceed 30 percent of the selling price. The election must be made in the year of sale even though no payment was received in that year. See section 453.

For treatment of a portion of payments as "unstated interest" on deferred payment sales, see section 483.

Sale of personal residence.—Tax on a portion or all of the gain from the sale of your principal residence may be deferred if:

(a) within 1 year after (or before) the sale, you purchase another residence and use it as your principal residence; or

(b) within 1 year after (or before) the sale, you begin construction of a new residence and use it as your principal residence not later than 18 months after the sale.

If you sold property for $20,000 or less on or after your 65th birthday which was owned and used by you as your principal residence for at least 5 of the last 8 years any gain on the sale need not be included in income. If the property was sold for more than $20,000 part of the gain must be taken into income.

Document No. 5017, Selling Your Home, is available free at any Internal Revenue Service office.

Nonbusiness debts.—If a debt, such as a personal loan, becomes totally worthless within the taxable year, the loss resulting therefrom shall be considered a loss from the sale or exchange, during the taxable year, of a capital asset held for not more than 6 months. Enter such loss in column (i) and describe in column (b), Part I. This does not apply to: (a) a debt evidenced by a corporate security with interest coupons or in registered form and (b) a debt acquired in your trade or business.

Limitation on allowable capital losses.—If line 10, Part I, shows a net loss, the loss shall be allowed as a deduction, only to the extent of the smaller of (1) line 11b (or line 9 if tax table is used), page 1, Form 1040 computed without capital gains (losses), or (2) $1,000. The excess of such allowable loss over the lesser of items (1) and (2) above is called "capital loss carryover." Any such carryover loss may be carried forward indefinitely. Capital losses retain their character as either short-term or long-term when carried over to the succeeding year. To the extent the net capital losses are deducted from ordinary income, the net short-term capital loss must be considered as deducted first.

Losses in transactions between certain persons.—No deduction is allowable for losses from sales or exchanges of property directly or indirectly between (a) members of a family, (b) a corporation and an individual (or a fiduciary) owning more than 50 percent of the corporation's stock (liquidations excepted), (c) a grantor and fiduciary of any trust, (d) a fiduciary and a beneficiary of the same trust, (e) a fiduciary and a fiduciary or beneficiary of another trust created by the same grantor, or (f) an individual and a tax-exempt organization controlled by the individual or his family. Partners and partnerships see section 707(b).

Long-term capital gains from regulated investment companies.—Include in income as a long-term capital gain the amount you are notified on Form 2439 which constitutes your share of the undistributed capital gains of a regulated investment company. You are entitled to a credit of 25 percent of this amount which should be included with the amount claimed on line 19, page 1, Form 1040. The remaining 75 percent should be added to the basis of your stock.

Losses on small business stock.—If you had a loss on section 1244 stock which would (but for that section) be treated as a loss from the sale or exchange of a capital asset, it shall be treated as a loss from the sale or exchange of an asset which is not a capital asset to the extent provided in that section.

o50—16—79725-1 U.S. GOVERNMENT PRINTING OFFICE

SCHEDULE OF GAINS & LOSSES
From sales and exchanges of property

NAME AARON AND IRIS KRAUT

ADDRESS

Taxable Year Ended 1967

NO. SHARES OR BONDS	1 PROPERTY DESCRIPTION	2 DATE ACQ.	2 DATE SOLD	3 GROSS SALES PRICE (Contract Price)	4 DEPRECN. ALLOWABLE	5 COST OR OTHER BASIS	6 EXPENSE OF SALE ETC.	7. GAIN (OR LOSS) LONG TERM	7. GAIN (OR LOSS) SHORT TERM
300	E.W. BLISS	6-30-67	IV-4-67	7763 45		7V93 -			470 45
√00	A.T.T.	6-30-67	IV-IV-67	V4816 94		V87V9 75			(391V 81)
600	CON. ED.	3-6-67	4-5-67	V1198 V9		V045V 70			745 √9
√00	CON. ED	3-V1-67	4-5-67	17690 V4		17004 IV			686 IV
V00	NATL PATENT	6-V-66	7-6-67	990V -		9887 -		15 -	
100	U.S. SMELT	6-V1-67	7-6-67	6649 16		6V8V 74			366 4V
√00	SUSQUEHANA	1-V6-67	9-V5-67	V0899 35		13√99 70		7299 65	
√00	ATLANTIC RESEARCH	8-9-67	10-4-67	V1831 75		16√51 90			√V79 85
1000	SHERATON	4-5-67	10-13-67	V3863 39		19638 80		4VV4 √9	
1000	UNIVERSAL AM.	9-19-67	10-23-67	V1040 77		17V40 -			3800 77
1000	RIVERA RTS		IV-1V-67	V08 74				V08 74	
1000	SUSQUEHANA	√-10-67	IV-V8-67	60 747 47		1471√ -		46 03V 47	
300	GULF & WESTERN	7-6-67	8-15-67	19085 88		180√9 94			10V5 94
V00	TWENTIETH CENT.	√-V9-67	8-30-67	10376 31		9036 76			439 √3
V00	STRUTHER WELLS	4-V3-67	10-V7-67	3765 16		3 45 -		6V0 16	
300	TWENTIETH CENT	√-V9-67	9-V6-67	16V38 79		14 7√5 14			1483 65
1800	STRUTHER WELLS	4-V3-67	10-V7-67	365V4 √7		V9138 V6		7386 31	
1000	E.W. BLISS	1-6-67	IV-4-67	V6375 66		V5V7V 14		1103 √V	
1000	TWENTIETH CENT RTS	√-V9-67	1V-6-67	VV4 37		-0-			VV4 37
√00	A.T.T.	6-30-67	IV-1V-67	V4816 94		V87V3 √0			(3906 √6)
TOTAL SHORT TERM GAIN (OR LOSS)									
TOTAL LONG TERM GAIN (OR LOSS)									
TOTAL NET CAPITAL GAIN (OR LOSS)								$	

CYPRESS NO. 300

JA 145

SCHEDULE OF GAINS & LOSSES
From sales and exchanges of property

NAME AARON AND FRIS KRAUT

ADDRESS

Taxable Year Ended 1967

NO. SHARES OR BONDS	1 PROPERTY DESCRIPTION	2 DATE ACQ.	2 DATE SOLD	3 GROSS SALES PRICE (Contract Price)	4 DEPRECN. ALLOWABLE	5 COST OR OTHER BASIS	6 EXPENSE OF SALE ETC.	7. GAIN (OR LOSS) LONG TERM	7. GAIN (OR LOSS) SHORT TERM
14500	KENRICH CORP	V-64	1967	17097 50		7637 75		9459 75	
1000	LEESONA	V-3-67	9-15-67	33091 83		25591 41		7500 42	
				39735 [illegible]		33[illegible] [illegible]			
				[illegible]					
				[illegible]					

JA 146

SCHEDULE B (Form 1040)

U.S. Treasury Department
Internal Revenue Service

Supplemental Schedule of Income and Retirement Income Credit

(From pensions and annuities, rents and royalties, partnerships, and estates or trusts)

Attach this schedule to your income tax return, Form 1040

1967

Name and address as shown on page 1 of Form 1040

Part I.—PENSION AND ANNUITY INCOME

A.—General Rule (If you did not contribute to the cost of the pension or annuity, enter the total amount received on line 6 and omit lines 1 through 5.)

			AMOUNT
1 Investment in contract		4 Amount received this year	
2 Expected return		5 Amount excludable (line 4 multiplied by line 3)	
3 Percentage of income to be excluded (line 1 divided by line 2)	%	6 Taxable portion (excess of line 4 over line 5)	

B.—Special Rule—Where your employer has contributed part of the cost and your own contribution will be recovered tax-free within 3 years. If your cost was fully recovered in prior years, enter the total amount received on line 5 and omit lines 1 through 4.

1 Cost of annuity (amounts you paid)		4 Amount received this year	
2 Cost received tax-free in past years			
3 Remainder of cost (line 1 less line 2)		5 Taxable portion (excess, if any, of line 4 over line 3)	

Part II.—RENT AND ROYALTY INCOME

1. Kind and location of property	2. Total amount of rents	3. Total amount of royalties	4. Depreciation (explain in Part IV) or depletion (attach computation)	5. Repairs (attach itemized list)	6. Other expenses (attach itemized list)
1 Totals					

2 Net income (or loss) from rents and royalties (column 2 plus column 3 less columns 4, 5, and 6)

Part III.—INCOME OR LOSSES FROM PARTNERSHIPS, ESTATES OR TRUSTS, ETC.

1 Partnerships (name, address, employer identification number, and nature of income) SCHEDULE (v983 v9).

2 Small business corporations (subchapter S—name, address, and employer identification number)

3 Estates or trusts (name, address, and employer identification number)

TOTAL OF PARTS I, II, AND III (Enter here and on page 2, Part II, line 3, Form 1040) (v983 v9)1

Part IV.—SCHEDULE FOR DEPRECIATION CLAIMED IN PART II ABOVE.—

This schedule is designed for taxpayers using the alternative guidelines and administrative procedures described in Revenue Procedures 62–21 and 65–13 as well as for those taxpayers who wish to continue using practices authorized prior to these revenue procedures. Where double headings appear use the first heading for depreciation under Revenue Procedures 62–21 and 65–13 and the second heading for other authorized practices.

1. Group and guideline class —OR— Description of property	2. Cost or other basis at beginning of year —OR— Cost or other basis	3. Asset additions in year (amount) —OR— Date acquired	4. Asset retirements in year (amount) (applicable only to Rev. Proc. 62–21)	5. Depreciation allowed or allowable in prior years	6. Method of computing depreciation	7. Class life —OR— Rate (%) or life	8. Depreciation for this year B
1 Total additional first-year depreciation (do not include in items below) →							
Total cost or other basis							

2 Total depreciation (Enter here and in Part II, column 4 above)

SUMMARY OF DEPRECIATION

	Straight line	Declining balance	Sum of the years-digits	Units of production	Additional first year (section 179)	Other (specify)	Total
1 Under Rev. Proc's. 62-21 and 65-13							
2 Other							

e69—16—79722-1

JA 147

FORM **2210**
U.S. Treasury Department
Internal Revenue Service

Statement Relating to Underpayment of Estimated Income Tax by Individuals

(To be filed with Form 1040 or Form 1040A)

1967

Name and address as shown on Form 1040

AARON AND IRIS KRAUT

Social Security Number: 087 | 18 | 0007

PART I.—FOR ALL INDIVIDUALS (See Instruction A.)

1 1967 Tax (enter amount shown on line 16, page 1 of Form 1040, or line 8 of Form 1040A)	$ 18315.54
2 Tax credit claimed for gasoline and lubricating oil in 1967 from Form 4136	18315.54
3 Tax as adjusted (line 1 less line 2)	$ 146.83
4 Amount on line 3 multiplied by 80% (farmers and fishermen use 66⅔%)	

PART II.—FOR ALL INDIVIDUALS EXCEPT FARMERS AND FISHERMEN (Farmers and Fishermen Use Part III)

	Due Dates of Installments			
	Apr. 15, 1967	June 15, 1967	Sept. 15, 1967	Jan. 15, 1968
How to figure your underpayment, see Instruction D				
1 Divide amount on line 4, Part I, by the number of installments required for the year and enter result in appropriate columns. (See Instruction B)	$ 36630.71	$ 36630.71	$ 36630.71	$ 36630.71
2 Amounts paid on estimate for each period, and tax withheld [1]	$ 18000.10	$ 18000.10	$ 18000.10	$ 81000.10
3 Overpayment of previous installment [2]				
4 Total of line 2 and line 3				
5 Underpayment (line 1 less line 4) or overpayment (line 4 less line 1)	$ 18630.61	$ 18630.61	$ 18630.61	$
Exceptions which void the "additional charge," see Instruction E				
6 Total amount paid or withheld from Jan. 1 through the installment date indicated	$ 18000.10	$ 36000.10	$ 54000.30	$ 135008.40
7 Exception 1. 1965 tax $ 70993.73	25% of 1966 tax $ 17748.44	50% of 1966 tax $ 35496.88	75% of 1966 tax $ 53245.32	100% of 1966 tax $ 70993.73
8 Exception 2. Tax based on 1966 income, 1967 rates and exemptions $	25% of this tax $	50% of this tax $	75% of this tax $	100% of this tax $
9 Exception 3.	20% of tax on annualized income $	40% of tax on annualized income $	60% of tax on annualized income $	
10 Exception 4.	90% of tax (Jan. 1 thru Mar. 31) $	90% of tax (Jan. 1 thru May 31) $	90% of tax (Jan. 1 thru Aug. 31) $	
How to figure the "additional charge," see Instruction F				
11 Amount of underpayment (from line 5, Part II)	$	$	$	$
12 Date of payment or April 15, 1968, whichever is earlier [3]				
13 Number of days from due date of installment to the date shown on line 12 above				
14 Additional charge (6 percent per year on the amount on line 11 for the number of days shown on line 13)	$	$	$	$
15 Total of amounts on line 14. On page 1, of your income tax return, show this amount in the bottom margin as "Additional Charge" and increase line 22 or decrease line 23 accordingly				$

PART III.—FOR FARMERS AND FISHERMEN. It is not necessary to file this form if your return is filed and tax due paid by February 15, 1968

See Instruction D	1 Enter the amount shown on line 4, Part I (the minimum amount due on Jan. 15, 1968)	$
	2 Amounts withheld during 1967 and amounts paid or credited, by Jan. 15, 1968	
	3 Underpayment of estimated tax (line 1 less line 2)	$
See Instruction E	4 Exception 1.—Tax shown on 1966 return	$
	5 Exception 2.—Tax based on 1966 income, using 1967 rates and exemptions	$
See Instruction F	6 Number of days from Jan. 15, 1968, to date of payment or Apr. 15, 1968, whichever is earlier	
	7 Additional charge (6 percent per year on the amount shown on line 3, Part III, for the number of days shown on line 6, Part III). On page 1 of your tax return, show this amount in the bottom margin as "Additional Charge" and increase line 22 or decrease line 23 accordingly	$

[1] An equal part of the tax withheld during the year may be considered paid on each required installment date unless you establish the dates on which withholding occurred and consider such withholding as paid on the dates when actually withheld. If your return was filed by January 31, 1968, and the balance of tax paid in full, include such balance on line 2, Part II for the January 15, 1968, installment.

[2] Any overpayment of an installment on line 5 in excess of all prior underpayments should be applied as a credit against the next installment.

[3] If you made more than one payment for a given installment, attach statement showing separate computation for each payment. If you filed your return and paid the balance of tax due by January 31, 1968, such balance shall be considered paid as of January 15, 1968.

16—79807-1

Part V.—RETIREMENT INCOME CREDIT

A.—General Rule

If separate return, use column B only. If joint return, use column A for wife and column B for husband →

	A		B	
Did you receive earned income in excess of $600 in each of any 10 calendar years before 1967? (Widows or widowers see instructions, page B–3)	☐ Yes	☐ No	☐ Yes	☐ No

If answer above is "Yes" in either column, furnish all information below in that column.

	A	B
1 Retirement income for taxable year:		
(a) For taxpayers under 65 years of age: Enter only income received from pensions and annuities under public retirement systems (e.g. Fed., State Govts., etc.) included on page 1, line 9, Form 1040		
(b) For taxpayers 65 years of age or older: Enter total of pensions and annuities, interest, and dividends included on page 1, line 9, Form 1040, and gross rents from Part II, column 2 of this schedule		
2 Maximum amount of retirement income for credit computation	$1,524 00	$1,524 00
3 Deduct: (a) Amounts received as pensions or annuities under the Social Security Act, the Railroad Retirement Acts, and certain other exclusions from gross income		
(b) Earned income received (Does not apply to persons 72 years of age or over):		
(1) Taxpayers under 62 years of age, enter amount in excess of $900		
(2) Taxpayers 62 or over but under 72, enter amount determined as follows: if $1,200 or less, enter zero; if over $1,200 but not over $1,700, enter ½ of amount over $1,200; or if over $1,700, enter excess over $1,450		
4 Total of lines 3(a) and 3(b)		
5 Balance (subtract line 4 from line 2)		
6 Line 5 or line 1, whichever is smaller		

7 (a) Total (add amounts on line 6, columns A and B)	
If line 7(a) is less than $2,286 and this is a joint return and both husband and wife are age 65 or over, complete the Alternative Computation in B below which may result in a larger credit.	
(b) Amount from line 7 of part B below, if applicable	
8 Tentative credit. Enter 15% of line 7(a) or 15% of line 7(b), whichever is greater	
LIMITATION ON RETIREMENT INCOME CREDIT	
9 Amount of tax shown on page 1, line 12, Form 1040	
10 Less: Credits claimed for foreign taxes or tax-free covenant bonds	
11 Subtract line 10 from line 9	
12 Credit. Enter here and on page 2, Part V, line 1, Form 1040, the amount on line 11 or line 8, whichever is smaller	

B.—Alternative Computation (after completing lines 1 through 7(a) above)

This method available if:
a. You are married and filing a joint return;
b. Both husband and wife are 65 or over, AND
c. Either one, or both received earned income in excess of $600 in each of any 10 calendar years before 1967.

Furnish the information called for below for both husband and wife even if only one answered "Yes" in column A or B above.

	A—WIFE	B—HUSBAND	
1 Retirement income of both husband and wife from pensions and annuities, interest, and dividends included on page 1, line 9, Form 1040, and gross rents from Part II, column 2 of this schedule			
2 Maximum amount of retirement income for credit computation			$2,286 00
3 Deduct: (a) Amounts received as pensions or annuities under the Social Security Act, the Railroad Retirement Acts, and certain other exclusions from gross income			
(b) Earned income received (Does not apply to persons 72 years of age or over): if $1,200 or less, enter zero; if over $1,200 but not over $1,700 enter ½ of amount over $1,200; or if over $1,700, enter excess over $1,450			
4 Total of lines 3(a) and 3(b)			
5 Total (add amounts on line 4, columns A and B)			
6 Balance (subtract line 5 from line 2)			
7 Enter here and on line 7(b) of part A above, the amount on line 6 or line 1, whichever is smaller			

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Petitioners' Exhibit 2-B

JA 149

Form 1040 U.S. Individual Income Tax Return

U.S. Treasury Department, Internal Revenue Service

for the year January 1–December 31, 1967, or other taxable year beginning ..... 1967, ending ..... 19.....

1967

Please print or type

First name and initial (If joint return, use first names and middle initials of both)	Last name	Your social security number
HARRY AND MARIAN	KRAUT	110 18 8563

Home address (Number and street or rural route): 56-07 FRESH MEADOW LANE — Your occupation:

City, town or post office, and State: FLUSHING NY — ZIP code: 11365 — Spouse's social security number: 118 18 8645

Enter below name and address used on your return for 1966 (if same as above, write "Same"). If none filed, give reason. If changing from separate to joint or joint to separate returns, enter 1966 names and addresses: SAME — Spouse's occupation:

Your present employer and address:

Spouse's present employer and address, if joint return:

Your Filing Status—check only one:

1a ☐ Single

1b ☑ Married filing joint return (even if only one had income)

1c ☐ Married filing separately. If spouse is also filing a return, enter her (his) social security number in space provided above and give first name here .....

1d ☐ Unmarried Head of Household

1e ☐ Surviving widow(er) with dependent child

Your Exemptions

	Regular	65 or over	Blind	
2a Yourself	☑	☐	☐	Enter number of boxes checked ▶ 2
2b Spouse	☑	☐	☐	

3a First names of your dependent children who lived with you: PATRICE, ROBIN — Enter number ▶ Y 1

3b Number of other dependents (from page 2, Part I, line 3) — 0

4 Total exemptions claimed ▶ 5

Please attach Copy B of Form W-2 here

Income If joint return include all income of both husband and wife	5	Wages, salaries, tips, etc. If not shown on attached Forms W-2 attach explanation	5	33985 —
	6	Other income (from page 2, Part II, line 8)	6	417 v8 00
	7	Total (add lines 5 and 6)	7	451 513 00
	8	Adjustments to income (from page 2, Part III, line 5)	8	
	9	Total income (subtract line 8 from line 7)	9	451 513 00
Find tax from table —OR— Figure tax using tax rate schedules	10	If you do not itemize deductions and line 9 is less than $5,000, find your tax from tables in instructions. Do not use lines 11a, b, c, or d. Enter tax on line 12.	10	
	11a	If you itemize deductions, enter total from page 2, Part IV, line 17. If you do not itemize deductions, and line 9 is $5,000 or more enter the larger of: (1) 10 percent of line 9; OR (2) $200 ($100 if married and filing separate return) plus $100 for each exemption claimed on line 4, above. Deduction under (1) or (2) limited to $1,000 ($500 if married and filing separately).	11a	4590 v 04
	11b	Subtract line 11a from line 9	11b	405610 96
	11c	Multiply total number of exemptions on line 4, above, by $600	11c	3000 00
	11d	Subtract line 11c from line 11b. Enter balance on this line. (Figure your tax on this amount by using tax rate schedule on page 11 of instructions.) Enter tax on line 12.	11d	402610 96
Your Tax, Credits, and Payments	12	Tax (from either Tax Table, see line 10, or Tax Rate Schedule, see lines 11a–11d) ALT	12	193 533 33
	13	Total credits (from page 2, Part V, line 4)	13	
	14a	Income tax (subtract line 13 from line 12)	14a	
	14b	Tax from recomputing prior year investment credit (attach statement)	14b	
	15	Self-employment tax (Schedule C-3 or F-1)	15	
	16	Total tax (add lines 14a, 14b, and 15)	16	193 523 33
	17	Total Federal income tax withheld (attach Forms W-2)	17	3876 10
	18	Excess F.I.C.A. tax withheld (two or more employers—see page 5 of instr.)	18	519 v0
	19	☐ Nonhighway Federal gasoline tax—Form 4136, ☐ Reg. Inv.—Form 2439	19	
	20	1967 Estimated tax payments (include 1966 overpayment allowed as a credit)	20	16000 00
	21	Total (add lines 17, 18, 19, and 20)	21	16395 30
Balance Due or Refund	22	If payments (line 21) are less than tax (line 16), enter Balance Due. Pay in full with this return	22	28138 03
	23	If payments (line 21) are larger than tax (line 16), enter Overpayment	23	
	24	Amount of line 23 you wish credited to 1968 Estimated Tax	24	
	25	Subtract line 24 from 23. Apply to: ☐ U.S. Savings Bonds, with excess refunded or ☐ Refund only	25	

Please attach Check or Money Order here

Under penalties of perjury, I declare that I have examined this return, including accompanying schedules and statements, and to the best of my knowledge and belief it is true, correct, and complete. If prepared by a person other than taxpayer, his declaration is based on all information of which he has any knowledge.

Sign here

Your signature — Date

Spouse's signature (If filing jointly, BOTH must sign even if only one had income)

Signature of preparer other than taxpayer — Date

Address

680—16—79323-1

Part I Exemptions Complete only for dependents claimed on line 3b, page 1

(a) NAME (If more space is needed attach schedule)	(b) Relationship	(c) Months lived in your home. If born or died during year write "B" or "D"	(d) Did dependent have income of $600 or more?	(e) Amount YOU furnished for dependent's support. If 100% write "ALL"	(f) Amount furnished by OTHERS including dependent.
1 REBECCA MUNITZ	MOTHER		NO	$ ALL	$
2					

3 Total number of dependents listed above. Enter here and on page 1, line 3b . . . . . ▶ 1

Part II Income from sources other than wages, etc.

1a Gross dividends and other distributions on stock (list payers and amounts—write (H), (W), (J), for stock held by husband, wife, or jointly)

SCHEDULE 485 | 60

Total line 1a . . . . . ▶ 485 | 60

1b Exclusion (see instructions). 200 | 00

1c Capital gain distributions (see page 6 of instructions).

1d Nontaxable distributions (see page 6 of instructions). 1414 | 90

1e Total (add lines 1b, 1c, and 1d) . . . . 1614 | 90

1f Taxable dividends (line 1a less line 1e—not less than zero) . . . . . ▶ 3V36 | 70

Interest (list payers and amounts below)

Earnings from savings and loan assoc. and credit unions.

SAV & LOAN ASS 16113.91

[redacted]er interest (banks, bonds, tax refunds, etc.)

N.P.-W.CO V7720.83

SAV. BANKS 1054.V6

2 Total interest income . . . . . ▶ 44889 | 30

3 Pensions and annuities, rents and royalties, partnerships, estates or trusts, etc. (attach Sch. B) .

4 Business income or loss (attach Schedule C) . .

5 Sale or exchange of property (attach Schedule D) . 369 40V | 00

6 Farm income or loss (attach Schedule F) . . .

Miscellaneous income (state nature and source)

Total miscellaneous income . . . . ▶

7 TOTAL (add lines 1f, 2, 3, 4, 5, 6, and 7). Enter here and on page 1, line 6 . . . ▶ 417 5V8 | 00

Part III Adjustments to income

1 "Sick pay" if included in line 5, page 1 (attach Form 2440 or other required statement) .

2 Moving expenses (attach Form 3903) . .

3 Employee business expense (attach Form 2106 or other statement) . . . . .

4 Payments by self-employed persons to retirement plans, etc. (attach Form 2950SE) .

5 TOTAL ADJUSTMENTS (lines 1 through 4). Enter here and on page 1, line 8 . . ▶

Part IV Itemized deductions—Use only if you do not use tax table or standard deduction.

Medical and dental expense (not compensated by insurance or otherwise)—Attach itemized list.

1 One-half (but not more than $150) of insurance premiums for medical care . .

2 Total cost of medicine and drugs . . .

3 Enter 1% of line 9, page 1 . . . . .

4 Subtract line 3 from line 2 (not less than zero)

5 Other medical, dental expenses (include balance of insurance premiums for medical care not deductible on line 1) . . .

6 Total (add lines 4 and 5) . . . . . .

7 Enter 3% of line 9, page 1 . . . . .

8 Subtract line 7 from line 6 (not less than zero) .

9 Total (add lines 1 and 8) . . . . . ▶

Contributions.—Cash—including checks, money orders, etc. (itemize)

HILLCREST JEWISH CENTER 250.00

VARIOUS OTHER RECOGNIZED CHARITIES 1850.-

10 Total cash contributions . . . . . V100 | 00

11 Other than cash (see instructions for required statement). Enter total of such items here .

12 Carryover from prior years (see page 8 of instr.)

13 Total contributions (add lines 10, 11, and 12—see instructions for limitation) ▶ V100 | -

Taxes.—Real estate . . . . . 888 | 6V

State and local gasoline . . . . .

General sales (see page 15 of instructions) . 300 | 00

State and local income . . . . . 42 613 | 4V

Personal property . . . . . .

14 Total taxes . . . . . ▶ 43 80V | 04

Interest expense.—Home Mortgage . . .

Other (itemize)

15 Total interest expense . . . . . ▶

Miscellaneous deductions.—(see page 9 of instructions)

16 Total miscellaneous . . . . . ▶

17 TOTAL DEDUCTIONS (add lines 9, 13, 14, 15, and 16). Enter here and on page 1, line 11a. ▶ 45 90V | 04

Part V Credits

1 Retirement income credit (Schedule B) .

2 Investment credit (Form 3468) . . . .

3 Foreign tax credit (Form 1116) . . . .

4 TOTAL CREDITS (for page 1, line 13) . ▶

EXPENSE ACCOUNTS—If you had an expense allowance or charged expenses to your employer, check here ☐ and see page 7 of instructions.

☆ U.S. GOVERNMENT PRINTING OFFICE: 1967—O-280-001

e50—10—79333-1

NAME HARRY AND MARIAN KRAUT

ADDRESS

Taxable Year Ended 1967

SCHEDULE OF DIVIDENDS:			Non-Tax			
(H)	SUNSET HOUSE	210 -				
	EASTERN A. L.	15 00				
	DICTAPHONE	250 00				
	COBURN CORP	292 50				
	COMBUSTION ENG.	100 00				
	CON-ED	1317 60	1764	90		
	HONEYWELL	55 00				
	WORTHINGTON	75 00				
	LILCO	117 00				
	PAN AM. WORLD AIR.	140 00				
	WALT DISNEY	30 00				
	U.S STEEL	120 00				
	TWENTIETH CENT	100 00				
	E.W. BLISS	175 00				
	ATASH CO	50 00				
	SHERATON CORP	250 00				
	U.S. SMELT	100 00				
	A.T.T.	467 00				
	TWA	50 00				
	REEVES BROS	75 00				
	HERTZ, NEWMARK + WARNER	210 00				
	SHEARSON, HAMMILL	67 50				
		4451 60	1764	90		
(J)	SYNTEX	20 00				
	WALT DISNEY	40 00				
	REVERE	150 00				
	TWENTIETH CENT	40 00				
	GEN PRECISION	150 00	150	00		
		400 00	150	00		
		4851 60	1414	90		

NAME HARRY AND MARIAN KRAUT

ADDRESS

Taxable Year Ended 1967

SCHEDULE OF INSTALLMENT SALE:						
1967 COLLECTIONS	638	17				
TAXABLE 100%			638	17		
EXPENSE OF COLLECTION			31	50		
NET LTCG			606	67		

JA 153

SCHEDULE D (Form 1040)
U.S. Treasury Department
Internal Revenue Service

Gains and Losses From Sales or Exchanges of Property

Attach this schedule to your income tax return, Form 1040

1967

Name and address as shown on page 1 of Form 1040

Part I—CAPITAL ASSETS—Short-term capital gains and losses—assets held not more than 6 months

a. Kind of property. Indicate security, real estate, or other (Specify)	b. Description (Examples: 100 sh. of "Z" Co., 2 story brick, etc.)	c. How acquired. Enter letter symbol (See instr.)	d. Date acquired (mo., day, yr.)	e. Date sold (mo., day, yr.)	f. Gross sales price	g. Depreciation allowed (or allowable) since acquisition	h. Cost or other basis, cost of subsequent improvements (if not purchased, attach explanation) and expense of sale	i. Gain or loss (f plus g less h)
1	SCHEDULE ATTACHED							24096.94

2 Enter your share of net short-term gain (or loss) from partnerships and fiduciaries . . . . . .
3 Enter unused short-term capital loss carryover from preceding taxable years (attach statement) . . . . . .
4 Net short-term gain (or loss) from lines 1, 2, and 3 . . . . . • 24096 94

Long-term capital gains and losses—assets held more than 6 months (12 months or more for certain livestock)

5 Enter gain from Part II, line 3 . . . . . .

INSTALLMENT SALE - SCHEDULE ATTACHED							606416.67
SCHEDULE ATTACHED							83904.45

Total long-term gross sales price . .

6 Enter the full amount of your share of net long-term gain (or loss) from partnerships and fiduciaries . . . . . .
7 Enter unused long-term capital loss carryover from preceding taxable years (attach statement) . . . . . .
8 Capital gain dividends (see Form 1040 Instructions, page 6) . . . . . .
9 Net long-term gain (or loss) from lines 5, 6, 7, and 8 . . . . . • 690321.12
10 Combine the amounts shown on lines 4 and 9, and enter the net gain (or loss) here 714 418.06
11 If line 10 shows a GAIN—Enter 50% of line 9 or 50% of line 10, whichever is smaller. (Enter zero if there is a loss or no entry on line 9.) (See reverse side for computation of alternative tax.) 345 016.06
12 Subtract line 11 from line 10. Enter here and in Part IV, line 1, on reverse side 369 401.00
13 If line 10 shows a LOSS—Enter here and in Part IV, line 1, the smallest of the following: (a) the amount on line 10; (b) the amount on page 1, line 11b, Form 1040, computed without regard to capital gains and losses; or (c) $1,000 . . •

Part II—GAIN FROM DISPOSITION OF DEPRECIABLE PROPERTY UNDER SECTIONS 1245 AND 1250—assets held more than 6 months (see instructions for definitions)

Where double headings appear, use the first heading for section 1245 and the second heading for section 1250.

D

a. Kind of property and how acquired (if necessary, attach statement of descriptive details not shown below—write 1245 or 1250 to indicate type of asset)	b. Date acquired (mo., day, yr.)	c. Date sold (mo., day, yr.)	d. Gross sales price	e. Cost or other basis, cost of subsequent improvements (if not purchased, attach explanation) and expense of sale	f. Depreciation allowed (or allowable) since acquisition: f-1. Prior to January 1, 1962 — OR — Prior to January 1, 1964	f. Depreciation allowed (or allowable) since acquisition: f-2. After December 31, 1961 — OR — After December 31, 1963	g. Adjusted basis (e less sum of f-1 and f-2)	h. Total gain (d less g)	i. Ordinary gain (lesser of f-2 or h) — OR — (see instructions)	j. Other gain (h less i)
1										

2 Total ordinary gain. Enter here and in Part IV, line 2, on reverse side . . . . . •
3 Total other gain. Enter here and in Part I, line 5; however, if the gains do not exceed the losses when this amount is combined with other gains and losses from section 1231 property enter the total of column j in Part III, line 1 . .

e50—16—79725-1

Part III—PROPERTY OTHER THAN CAPITAL ASSETS

a. Kind of property and how acquired (if necessary, attach statement of descriptive details not shown below)	b. Date acquired (mo., day, yr.)	c. Date sold (mo., day, yr.)	d. Gross sales price	e. Depreciation allowed (or allowable) since acquisition	f. Cost or other basis, cost of subsequent improvements (if not purchased, attach explanation) and expense of sale	g. Gain or loss (d plus e less f)
1 Enter gain from Part II, line 3						
2 Enter your share of partnership and fiduciary gain (or loss) from property other than capital assets						
3 Net gain (or loss) from lines 1 and 2. Enter here and in Part IV, line 3						

Part IV—TOTAL GAINS OR LOSSES FROM SALE OR EXCHANGE OF PROPERTY

1 Net gain (or loss) from Part I, line 12 or 13	369 40v.00
2 Total ordinary gain from Part II, line 2	
3 Net gain (or loss) from Part III, line 3	
4 Total net gain (or loss), combine lines 1, 2, and 3. Enter here and on page 2, Part II, line 5, Form 1040	369 40v 00

COMPUTATION OF ALTERNATIVE TAX—It will usually be to your advantage to use the alternative tax if the net long-term capital gain exceeds the net short-term capital loss, or if there is a net long-term capital gain only, and you are filing (a) a separate return with taxable income exceeding $26,000, or (b) a joint return, or as a surviving husband or wife, with taxable income exceeding $52,000, or (c) as a head of household with taxable income exceeding $38,000.

1 Enter the amount from page 1, line 11d, Form 1040	40v 610.96
2 Enter amount from Part I, line 11, on reverse side	345 016 06
3 Subtract line 2 from line 1	57594 90
4 Enter tax on amount on line 3 (use applicable tax rate schedule on page 11 of Form 1040 instructions)	21 0v5 30
5 Enter 50% of line 2	17v508 03
6 Alternative tax (add lines 4 and 5). If smaller than the tax figured on the amount on page 1, line 11d, Form 1040, enter this alternative tax on page 1, line 12, Form 1040 and write "Alternative" to left of entry	19 3533 33

INSTRUCTIONS (Continued from reverse side of original)

Column i of Part II, section 1250 property only.—If held for more than 6 months, but not more than 1 year, enter the smaller of (1) column h, or (2) column f-2.

If held for more than 1 year, enter the result of multiplying the smaller of (1) column h, or (2) column f-2 less the amount of depreciation computed for the same period using the straight line method, by the percentage obtained by subtracting from 100%, one percentage point for each full month held in excess of 20 months.

Where substantial improvements have been made within the preceding 10 years, see section 1250(f).

Basis.—In determining gain or loss use cost, except as specially provided. The basis of property acquired by gift after December 31, 1920, is the cost or other basis to the donor in the event of gain, but, in the event of loss, it is the lower of either such donor's basis or the fair market value on date of gift. If a gift tax was paid with respect to property received by gift, see section 1015(d). Generally, the basis of property acquired by inheritance is the fair market value at the date of death. For special cases involving property acquired from a decedent, see section 1014.

Installment sales.—If you sold personal property for more than $1,000 or real property regardless of amount, you may be eligible to report any gain under the installment plan if (1) there is no payment in the year of sale, or (2) the payments in the year of sale do not exceed 30 percent of the selling price. The election must be made in the year of sale even though no payment was received in that year. See section 453.

For treatment of a portion of payments as "unstated interest" on deferred payment sales, see section 483.

Sale of personal residence.—Tax on a portion or all of the gain from the sale of your principal residence may be deferred if:

(a) within 1 year after (or before) the sale, you purchase another residence and use it as your principal residence; or

(b) within 1 year after (or before) the sale, you begin construction of a new residence and use it as your principal residence not later than 18 months after the sale.

If you sold property for $20,000 or less on or after your 65th birthday which was owned and used by you as your principal residence for at least 5 of the last 8 years any gain on the sale need not be included in income. If the property was sold for more than $20,000 part of the gain must be taken into income.

Document No. 5017, Selling Your Home, is available free at any Internal Revenue Service office.

Nonbusiness debts.—If a debt, such as a personal loan, becomes totally worthless within the taxable year, the loss resulting therefrom shall be considered a loss from the sale or exchange, during the taxable year, of a capital asset held for not more than 6 months. Enter such loss in column (i) and describe in column (b), Part I. This does not apply to: (a) a debt evidenced by a corporate security with interest coupons or in registered form and (b) a debt acquired in your trade or business.

Limitation on allowable capital losses.—If line 10, Part I, shows a net loss, the loss shall be allowed as a deduction, only to the extent of the smaller of (1) line 11b (or line 9 if tax table is used), page 1, Form 1040 computed without capital gains (losses), or (2) $1,000. The excess of such allowable loss over the lesser of items (1) and (2) above is called "capital loss carryover." Any such carryover loss may be carried forward indefinitely. Capital losses retain their character as either short-term or long-term when carried over to the succeeding year. To the extent the net capital losses are deducted from ordinary income, the net short-term capital loss must be considered as deducted first.

Losses in transactions between certain persons.—No deduction is allowable for losses from sales or exchanges of property directly or indirectly between (a) members of a family, (b) a corporation and an individual (or a fiduciary) owning more than 50 percent of the corporation's stock (liquidations excepted), (c) a grantor and fiduciary of any trust, (d) a fiduciary and a beneficiary of the same trust, (e) a fiduciary and a fiduciary or beneficiary of another trust created by the same grantor, or (f) an individual and a tax-exempt organization controlled by the individual or his family. Partners and partnerships see section 707(b).

Long-term capital gains from regulated investment companies.—Include in income as a long-term capital gain the amount you are notified on Form 2439 which constitutes your share of the undistributed capital gains of a regulated investment company. You are entitled to a credit of 25 percent of this amount which should be included with the amount claimed on line 19, page 1, Form 1040. The remaining 75 percent should be added to the basis of your stock.

Losses on small business stock.—If you had a loss on section 1244 stock which would (but for that section) be treated as a loss from the sale or exchange of a capital asset, it shall be treated as a loss from the sale or exchange of an asset which is not a capital asset to the extent provided in that section.

o50—16—70725-1 U.S. GOVERNMENT PRINTING OFFICE

Page 1

SCHEDULE OF GAINS & LOSSES
From sales and exchanges of property

NAME Harry Krant

ADDRESS 5607 Fresh Meadow Lane Flushing N.Y.

Taxable Year Ended 1967

NO. SHARES OR BONDS	1 PROPERTY DESCRIPTION	2 DATE ACQ.	2 DATE SOLD	3 GROSS SALES PRICE (Contract Price)	4 DEPRECN. ALLOWABLE	5 COST OR OTHER BASIS	6 EXPENSE OF SALE ETC.	7. GAIN (OR LOSS) LONG TERM	SHORT TERM
100	Seaboard W. Air	11/9/66	1/17/67	2861 44		2191 13			670 31
100	Seaboard	11/9/66	1/17/67	2861 44		2203 75			657 69
100	Potash	8/17/65	1/17/67	5350 60		5169 13		181 47	
100	Eastern A-L	9/30/66	1/17/67	9221 53		6870 83			2350 70
100	Tel Utils	11/3/67	1/17/67	4080 28		4064 13			16 15
100	Seaboard W. Air	11/9/66	1/17/67	3072 87		2203 75			869 12
200	Seaboard	11/9/66	2/7/67	6643 24		4407 50			2235 74
100	Avnet	3/1/67	3/2/67	2550 50		2304 75			245 75
100	Comb Eng	8/1/66	3/1/67	6224 59		4805 31		1419 28	
200	Elec Autos	2/15/67	3/2/67	4727 90		4609 50			118 40
200	Nat Patent	1/3/67	3/6/67	8111 00		7626 25			484 75
100	Mont Ward	3/3/67	3/17/67	2550 50		2355 25			195 25
100	Lenapa	3/6/67	3/16/67	2799 25		2153 25			646 —
100	Comb Eng	8/3/66	3/16/67	7048 25		5081 54		1967 21	
1400	Cubic	3/17/67	3/23/67	28,269 15		28,529 51			260 36
100	Potash	8/17/65	4/4/67	5000 95		5169 13		168 18	
200	Aberdeen	10/9/66	4/6/67	2725 74		2008 76		716 98	
100	Aberdeen	2/15/66	4/6/67	1362 87		1550 —		187 13	
100	Honeywell	4/4/67	4/17/67	7852 94		8297 25			444 31
100	Honeywell	4/10/67	4/17/67	7852 94		8147 10			294 16
TOTAL SHORT TERM GAIN (OR LOSS)									
TOTAL LONG-TERM GAIN (OR LOSS)								3929 63	7490 53
TOTAL NET CAPITAL GAIN (OR LOSS)								$	

CYPRESS NO. 2

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Page 2

SCHEDULE OF GAINS & LOSSES
From sales and exchanges of property

NAME Harry Frantz

ADDRESS 1607 Fresh Meadow Lane. Hewlett, N.Y.

Taxable Year Ended 1967

NO. SHARES OR BONDS	1 PROPERTY DESCRIPTION	2 DATE ACQ.	2 DATE SOLD	3 GROSS SALES PRICE (Contract Price)	4 DEPRECN. ALLOWABLE	5 COST OR OTHER BASIS	6 EXPENSE OF SALE ETC.	7. GAIN (OR LOSS) LONG TERM	SHORT TERM
100	Walt Disney	2/17/67	4/17/67	8834 43		8072 03			762 40
200	General Sup.	4/11/67	4/24/67	6618 36		5716 26			902 10
100	Geneva Corp	4/4/67	4/25/67	2873 88		2958 63			84 25
200	Reeves	10/17/66	4/7/67	6493 98		5326 82		1167 16	
200	Ll. Lty	1/24/64	5/11/67	5722 88		6168 50		445 62	
200	Dictaphone	3/31/67	5/24/67	6966 59		8128 26			1161 67
100	U.S. Steel	11/21/66	6/7/67	4341 47		3787 75		553 72	
200	Pan American	10/25/66	6/7/67	6618 36		4365 63		2252 73	
200	Columbia Cas.	11/12/61	6/7/67	4653 64		2602 13		2051 51	
200	Worthington	5/19/67	6/15/67	12948 67		10,588 50			2360 17
300	Walt Disney	5/10/67	6/15/67	20,191 27		18,796 70			1394 57
100	Comsat.	5/10/67	6/15/67	7335 96.		6570 53			765 43
150	Honeywell	11/30/66	6/15/67	7098 70		5619 58		1479 12	
2000	Kentucky Corp	2/25/64	6/13/67	2395 00		—0—		2395 00	
400	U.S. Smelting	6/15/67	7/5/67	25847 41		25,181 00.			666 41
1000	Kennecott Corp	2/25/64	7/10/67	1457 50		—0—		1457 50	
100	Geo. Fo[illegible]man	5/25/67	7/26/67	3433 55		2544 06.			889 49
1000	Susquehanna Corp	6/27/67	7/31/67	34,356 20		29,536 02			4850 18
200	Dictaphone	3/31/67	8/21/67	8608 32		8027 76.			580 56
300	Sperry Rand	4/4/67	8/21/67	11420 01		9943 70.			1476 31
TOTAL SHORT TERM GAIN (OR LOSS)									20,891 73
TOTAL LONG TERM GAIN (OR LOSS)								14,840 25	
TOTAL NET CAPITAL GAIN (OR LOSS)								$	

CYPRESS NO.

JA 156

e 3

SCHEDULE OF GAINS & LOSSES
From sales and exchanges of property

NAME Harry Kraut

ADDRESS 1607 Fresh Meadow Lane Flushing, N.Y.

Taxable Year Ended 1967

NO. SHARES OR BONDS	1 PROPERTY DESCRIPTION	2 DATE ACQ.	2 DATE SOLD	3 GROSS SALES PRICE (Contract Price)	4 DEPRECN. ALLOWABLE	5 COST OR OTHER BASIS	6 EXPENSE OF SALE ETC.	7. GAIN (OR LOSS) LONG TERM	7. GAIN (OR LOSS) SHORT TERM
						14,840.75			20,891 73
100	Walt Disney	7/17/67	8/1/67	8654 61		9260 71			(601 10)
400	Gulf + Western	6/29/67	8/9/67	25447 84		24,092 43			1355 41
100	Lighter	1/26/67	8/9/67	8934 33		8872 83			61 50
100	Walt Disney	7/17/67	8/21/67	8896 87		9260 71			(363 84)
100	Walt Disney	7/17/67	8/21/67	8796 97		9260 71			(463 74)
200	20th Century Fox	1/17/67	8/28/67	11575 08		10,037 76			1537 32
1000	Kennecott Corp.	2/15/64	8/29/67	19,50 00		-0-		1950 00	
200	Walt Disney	7/17/67	9/15/67	19,641 84		18,521 42			1120 42
200	Walt Disney	7/17/67	9/15/67	19,492 00		16,294 20			3197 80
1000	Warner Lambert Corp.	6/20/67	9/19/67	42,102 24		27,262 20			14,840 04
200	Liberty Loan	3/30/67	10/2/67	9429 18		6570 50		2858 68	
100	Universal Common	9/13/67	10/6/67	21,040 77		17,240 00			3800 77
300	Liberty Loan	4/4/67	10/6/67	14,778 06		9617 06	-	5161 00	
1000	Allenton Corp.	3/27/67	10/6/67	24,012 61		18,275 28	-	5737 33	
100	Hearst Corp.	5/23/67	11/21/67	7680 43		11,650 00			(3969 57)
200	Pan American	9/1/67	11/21/67	4957 77		6070 03			(1118 26)
100	Revere Copper	8/22/67	11/21/67	3110 18		3134 50			(24 32)
100	Canso	9/19/67	11/21/67	3113 23		5832 29			(719 06)
1000	E.W. Bliss	1/26/67	11/28/67	26,126 97		24,272 14		1854 83	
100	Revere Copper	8/30/67	11/28/67	3097 74		3134 50			(36 76)
TOTAL SHORT TERM GAIN (OR LOSS)									39,508 34
TOTAL LONG TERM GAIN (OR LOSS)								32,402 59	
TOTAL NET CAPITAL GAIN (OR LOSS)								$	

CYPRESS NO. 3N

JA 157

SCHEDULE OF GAINS & LOSSES
From sales and exchanges of property

NAME Harry Green

ADDRESS 1607 Meadowbrook Lane Flushing N.Y.

Taxable Year Ended 1967

NO. SHARES OR BONDS	1 PROPERTY DESCRIPTION	2 DATE ACQ.	2 DATE SOLD	3 GROSS SALES PRICE (Contract Price)	4 DEPRECN. ALLOWABLE	5 COST OR OTHER BASIS	6 EXPENSE OF SALE ETC.	7. GAIN (OR LOSS) LONG TERM	7. GAIN (OR LOSS) SHORT TERM
								2,402.54	3906.34
500	Calumet Corp.	1/12/67	12/11/67	12,006.30		6536.90		5469.40	
200	Hemet Homes.	6/11/67	12/4/67	3096.93		1438.26			1285.33
200	Revere.	8/22/67	12/14/67	5921.88		6269.00			347.12
100	TWA	8/25/67	12/14/67	5213.13		7346.30			2133.17
3000	West Toledo Mining	9/25/67	12/29/67	5912.50		11,190.00			5277.50
1000	Susquehanna Corp.	4/27/67	12/27/67	60,747.46		14,715.00		46,032.46	
300	Hupp Corp	11/1/67	12/29/67	14,572.00		16,344.26			1772.24
200	Gamut.	9/19/67	12/29/67	9727.68		11,664.58			1936.90
1000	Pacific Petroleum	10/24/67	12/29/67	16,474.66		19,133.80			2659.14

TOTAL ~~LONG~~ TERM GAIN (~~OR LOSS~~) Long Term 83,904.45 2

TOTAL ~~SHORT~~ TERM GAIN (~~OR LOSS~~) Short Term 24,096.94

TOTAL NET CAPITAL GAIN (OR LOSS) 5

JA 158

JA 159

SCHEDULE B (Form 1040)

U.S. Treasury Department
Internal Revenue Service

Supplemental Schedule of Income and Retirement Income Credit

(From pensions and annuities, rents and royalties, partnerships, and estates or trusts)

Attach this schedule to your income tax return, Form 1040

1967

Name and address as shown on page 1 of Form 1040

Part I.—PENSION AND ANNUITY INCOME

A.—General Rule (If you did not contribute to the cost of the pension or annuity, enter the total amount received on line 6 and omit lines 1 through 5.)

			AMOUNT
1 Investment in contract		4 Amount received this year	
2 Expected return		5 Amount excludable (line 4 multiplied by line 3)	
3 Percentage of income to be excluded (line 1 divided by line 2)	%	6 Taxable portion (excess of line 4 over line 5)	

B.—Special Rule—Where your employer has contributed part of the cost and your own contribution will be recovered tax-free within 3 years. If your cost was fully recovered in prior years, enter the total amount received on line 5 and omit lines 1 through 4.

1 Cost of annuity (amounts you paid)		4 Amount received this year	
2 Cost received tax-free in past years			
3 Remainder of cost (line 1 less line 2)		5 Taxable portion (excess, if any, of line 4 over line 3)	

Part II.—RENT AND ROYALTY INCOME

1. Kind and location of property	2. Total amount of rents	3. Total amount of royalties	4. Depreciation (explain in Part IV) or depletion (attach computation)	5. Repairs (attach itemized list)	6. Other expenses (attach itemized list)
1 Totals					

2 Net income (or loss) from rents and royalties (column 2 plus column 3 less columns 4, 5, and 6)

Part III.—INCOME OR LOSSES FROM PARTNERSHIPS, ESTATES OR TRUSTS, ETC.

1 Partnerships (name, address, employer identification number, and nature of income)

2 Small business corporations (subchapter S—name, address, and employer identification number)

3 Estates or trusts (name, address, and employer identification number)

TOTAL OF PARTS I, II, AND III (Enter here and on page 2, Part II, line 3, Form 1040)

Part IV.—SCHEDULE FOR DEPRECIATION CLAIMED IN PART II ABOVE

—This schedule is designed for taxpayers using the alternative guidelines and administrative procedures described in Revenue Procedures 62–21 and 65–13 as well as for those taxpayers who wish to continue using practices authorized prior to these revenue procedures. Where double headings appear use the first heading for depreciation under Revenue Procedures 62–21 and 65–13 and the second heading for other authorized practices.

1. Group and guideline class —OR— Description of property	2. Cost or other basis at beginning of year —OR— Cost or other basis	3. Asset additions in year (amount) —OR— Date acquired	4. Asset retirements in year (amount) (applicable only to Rev. Proc. 62–21)	5. Depreciation allowed or allowable in prior years	6. Method of computing depreciation	7. Class life —OR— Rate (%) or life	8. Depreciation for this year
1 Total additional first-year depreciation (do not include in items below)							
Total cost or other basis							

2 Total depreciation (Enter here and in Part II, column 4 above)

B

SUMMARY OF DEPRECIATION

	Straight line	Declining balance	Sum of the years-digits	Units of production	Additional first year (section 179)	Other (specify)	Total
1 Under Rev. Proc's. 62–21 and 65–13							
2 Other							

o69—16—79732-1

Part V.—RETIREMENT INCOME CREDIT

A.—General Rule

If separate return, use column B only. If joint return, use column A for wife and column B for husband →

	A		B	
Did you receive earned income in excess of $600 in each of any 10 calendar years before 1967? (Widows or widowers see instructions, page B–3)	☐ Yes	☐ No	☐ Yes	☐ No
If answer above is "Yes" in either column, furnish all information below in that column.				
1 Retirement income for taxable year:				
(a) For taxpayers under 65 years of age: Enter only income received from pensions and annuities under public retirement systems (e.g. Fed., State Govts., etc.) included on page 1, line 9, Form 1040				
(b) For taxpayers 65 years of age or older: Enter total of pensions and annuities, interest, and dividends included on page 1, line 9, Form 1040, and gross rents from Part II, column 2 of this schedule				
2 Maximum amount of retirement income for credit computation	$1,524	00	$1,524	00
3 Deduct: (a) Amounts received as pensions or annuities under the Social Security Act, the Railroad Retirement Acts, and certain other exclusions from gross income				
(b) Earned income received (Does not apply to persons 72 years of age or over): (1) Taxpayers under 62 years of age, enter amount in excess of $900				
(2) Taxpayers 62 or over but under 72, enter amount determined as follows: if $1,200 or less, enter zero; if over $1,200 but not over $1,700, enter ½ of amount over $1,200; or if over $1,700, enter excess over $1,450				
4 Total of lines 3(a) and 3(b)				
5 Balance (subtract line 4 from line 2)				
6 Line 5 or line 1, whichever is smaller				

7 (a) Total (add amounts on line 6, columns A and B)		
If line 7(a) is less than $2,286 and this is a joint return and both husband and wife are age 65 or over, complete the Alternative Computation in B below which may result in a larger credit.		
(b) Amount from line 7 of part B below, if applicable		
8 Tentative credit. Enter 15% of line 7(a) or 15% of line 7(b), whichever is greater		
LIMITATION ON RETIREMENT INCOME CREDIT		
9 Amount of tax shown on page 1, line 12, Form 1040		
10 Less: Credits claimed for foreign taxes or tax-free covenant bonds		
11 Subtract line 10 from line 9		
12 Credit. Enter here and on page 2, Part V, line 1, Form 1040, the amount on line 11 or line 8, whichever is smaller		

B.—Alternative Computation (after completing lines 1 through 7(a) above)

This method available if:
a. You are married and filing a joint return;
b. Both husband and wife are 65 or over, AND
c. Either one, or both received earned income in excess of $600 in each of any 10 calendar years before 1967.

Furnish the information called for below for both husband and wife even if only one answered "Yes" in column A or B above.

		A—WIFE	B—HUSBAND	
1 Retirement income of both husband and wife from pensions and annuities, interest, and dividends included on page 1, line 9, Form 1040, and gross rents from Part II, column 2 of this schedule				
2 Maximum amount of retirement income for credit computation				$2,286 00
3 Deduct: (a) Amounts received as pensions or annuities under the Social Security Act, the Railroad Retirement Acts, and certain other exclusions from gross income				
(b) Earned income received (Does not apply to persons 72 years of age or over): if $1,200 or less, enter zero; If over $1,200 but not over $1,700 enter ½ of amount over $1,200; or if over $1,700, enter excess over $1,450				
4 Total of lines 3(a) and 3(b)				
5 Total (add amounts on line 4, columns A and B)				
6 Balance (subtract line 5 from line 2)				
7 Enter here and on line 7(b) of part A above, the amount on line 6 or line 1, whichever is smaller				

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Petitioners' Exhibit 3-C

JA 161

FORM **1120**
U.S. Treasury Department
Internal Revenue Service

U.S. CORPORATION INCOME TAX RETURN—1965

or other taxable year beginning JULY 1, 1965, ending JUNE 30, 1966
(PLEASE TYPE OR PRINT)

Check if a—
A. Sole proprietorship ☐ or partnership ☐ electing under sec. 1361 to be taxed as a corporation.
B. Consolidated return. ☐
C. Personal Holding Co. ☐

D. Business Code No. (see instr.)

Name: NASSAU PLASTICS AND WIRE CORP

Number and street: 315 VIRGINIA AVE

City or town, State, and Postal ZIP code: OCEANSIDE, N.Y.

E. Employer Identification No. 11-2106819

F. County in which located: NASSAU

G. Enter total assets from line 13 Sch. L (see instruction R): $ 53867.56

IMPORTANT—All applicable lines and schedules must be filled in. If the lines on the schedules are not sufficient, see instruction Q.

GROSS INCOME	1. Gross receipts or gross sales _____ Less: Returns and allowances _____	497305.16
	2. Less: Cost of goods sold (Schedule A) and/or operations (attach schedule)	466115.32
	3. Gross profit	31189.84
	4. Dividends (Schedule C)	
	5. Interest on obligations of the United States and U.S. instrumentalities	
	6. Other interest	
	7. Rents	
	8. Royalties	
	9. Net gains (losses)—(separate Schedule D)	
	10. Other income (attach schedule)	
	11. TOTAL income—Add lines 3 through 10	31189.84
DEDUCTIONS	12. Compensation of officers (Schedule E)	2600.00
	13. Salaries and wages (not deducted elsewhere)	
	14. Repairs (do not include cost of improvements or capital expenditures)	
	15. Bad debts (Schedule F if reserve method is used)	
	16. Rents	
	17. Taxes (attach schedule)	1117.66
	18. Interest	
	19. Contributions (attach schedule—see instructions for limitation)	
	20. Losses by fire, storm, shipwreck, other casualty, or theft (attach schedule)	
	21. Amortization (attach schedule)	
	22. Depreciation (Schedule G)	727.27
	23. Depletion (attach schedule)	
	24. Advertising	
	25. (a) Pension, profit-sharing, stock bonus, annuity plans (see instructions)	
	(b) Other employee benefit plans (see instructions)	
	26. Other deductions (attach schedule)	5913.40
	27. TOTAL deductions in lines 12 through 26	10358.33
	28. Taxable income before net operating loss deduction and special deductions (line 11 less line 27)	15831.51
	29. Less: (a) Net operating loss deduction (see instructions—attach schedule) _____	
	(b) Special deductions (Schedule I) _____	
	30. Taxable income (line 28 less line 29)	15831.51
TAX AND PAYMENTS	31. TOTAL income tax (Schedule J)	3482.94
	32. Credits: (a) Tax paid with Form 7004 application for extension (attach copy) _____	
	(b) Payments and credits on 1965 declaration of estimated tax _____	
	(c) Credit from regulated investment companies (attach Form 2439) _____	
	(d) Other (specify) _____	
	33. If tax (line 31) is larger than credits (line 32), the balance is TAX DUE. Enter balance here →	3482.94
	34. If tax (line 31) is less than credits (line 32) ..... Enter the OVERPAYMENT here →	
	35. Enter amount of line 34 you want: Credited on 1966 estimated tax _____ Refunded _____	

Under penalties of perjury, I declare that I have examined this return, including accompanying schedules and statements, and to the best of my knowledge and belief it is true, correct, and complete. If prepared by a person other than taxpayer, his declaration is based on all information of which he has any knowledge.

CORPORATE SEAL

Date _____ Signature of officer _____ Title _____

Date _____ Individual or firm signature of preparer _____ Address _____

16—72869-1

Form 1120 (1965) JA 162 Page 2

Schedule A—COST OF GOODS SOLD (Where inventories are an income-determining factor) (See instruction 2)

1. Inventory at beginning of year	—	5. Total of lines 1 through 4	466115.37
2. Merchandise bought for manufacture or sale	466115.37	6. Less: Inventory at end of year	-0-
3. Salaries and wages		7. Cost of goods sold (enter here and on line 2, page 1)	466115.37
4. Other costs per books (attach schedule)			

Schedule C—INCOME FROM DIVIDENDS

1. Name of declaring corporation	2. Domestic corporations taxable under chapter 1, Internal Revenue Code	3. Certain preferred stock of public utilities taxable under chapter 1, Internal Revenue Code	4. Foreign corporations	5. Other corporations
Totals				

Total of columns 2, 3, 4, and 5 .....

Add amount includible by shareholder of controlled foreign corporation (attach Form 3646) .....

Total (enter here and on line 4, page 1) .....

Schedule E—COMPENSATION OF OFFICERS (See page 5 of instructions)

1. Name, address, and social security number of officer	2. Title	3. Time devoted to business	Percent of corporation stock owned		6. Amount of compensation	7. Expense account allowances
			4. Common	5. Preferred		
IRIS KRAUT					1300.00	
MARIAN KRAUT					1300.00	
Total compensation of officers (enter here and on line 12, page 1)					2600.00	

Schedule F—BAD DEBTS—RESERVE METHOD (See instruction 15)

1. Year	2. Trade notes and accounts receivable outstanding at end of year	3. Sales on account	4. [illegible] amount added to reserve	5. Amount charged against reserve	6. Reserve for bad debts at end of year
1960.					
1961.					
1962.					
1963.					
1964.					
1965.					

Schedule G—DEPRECIATION (See instruction 22)

Taxpayers using Revenue Procedure 62-21, in column 3 state the cost or other basis of assets held at end of year. Column 2 is not applicable to Revenue Procedure 62-21.

1. Group and guideline class or description of property	2. Date acquired	3. Cost or other basis	4. Depreciation allowed or allowable in prior years	5. Method of computing depreciation	6. Life or rate	7. Depreciation for this year
1. Total additional first-year depreciation (do not include in items below) →						
Buildings						
Furniture and fixtures						
Transportation equipment						
Machinery and other equipment						
Other (specify)						
AUTO	7-65	2181.67	-0-	S.L.	33⅓	727.22
2. Totals						
3. Less: Amount of depreciation claimed in Schedule A and elsewhere on return						
4. Balance—Enter here and on line 22, page 1						727.22

Schedule H—SUMMARY OF DEPRECIATION

	Straight line	Declining balance	Sum of the years-digits	Units of production	Additional first year (section 179)	Other (specify)	Total
1. Under Rev. Proc. 62-21							
2. Other							

16—78869-1

Schedule I—SPECIAL DEDUCTIONS
(Small business investment companies and members of affiliated groups—see instructions)

1. Dividends-received: (a) 85 percent of column 2, Schedule C	
(b) 60.208 percent of column 3, Schedule C	
(c) 85 percent of dividends received from certain foreign corporations	
2. Total dividends-received deductions (sum of lines 1(a), (b), and (c) but not to exceed 85 percent of the excess of line 28, page 1 over line 4 of this schedule). (The 85-percent limitation does not apply to a year in which a net operating loss occurs.)	
3. Dividends paid on certain preferred stock of public utilities (see instructions in case of net operating loss)	
4. Western Hemisphere trade corporations (not allowable in year of net operating loss)	
5. Total special deductions—Add lines 2, 3, and 4. Enter here and on line 29(b), page 1	

SCHEDULE J—TAX COMPUTATION
(Component members of controlled corporate group use Form 3920 to compute your tax)

1. Taxable income (line 30, page 1)		15831.56
2. If amount on line 1 is:		
(a) Not over $25,000—Enter 22 percent of line 1		3482.94
(b) Over $25,000—Enter 48 percent of line 1		
Subtract $6,500 and enter difference	6,500.00	
3. Income tax (line 2, or line 22 of separate Schedule D, whichever is lesser)		
4. Foreign tax credit (attach Form 1118)		
5. Balance (line 3 less line 4)		
6. Investment credit (attach Form 3468)		
7. Balance of income tax (line 5 less line 6)		
8. Tax under section 541 of the Internal Revenue Code (attach Schedule 1120 PH)		
9. Tax from recomputing prior year investment credit (attach statement)		
10. Total tax—Add lines 7, 8, and 9. Enter here and on line 31, page 1		3482.94

H. Date incorporated 7-65

I. (1) Did the corporation at the end of the taxable year own directly or indirectly 50 percent or more of the voting stock of a domestic corporation? ..... Yes ☐ No ☑

(2) Did any corporation, individual, partnership, trust, or association at the end of the taxable year own directly or indirectly 50 percent or more of the corporation's voting stock? ..... Yes ☐ No ☐
(For rules of attribution, see section 267 (c).)
If the answer to (1) or (2) is "Yes," attach separate schedule showing:
(a) name, address, and employer identification no.; and (b) percentage owned.
If the answer to (1) above is "Yes," include the taxable income (or loss) of such corporation for the taxable year ending with or within your taxable year.

J. Did you have any contracts or subcontracts subject to the Renegotiation Act of 1951? ..... Yes ☐ No ☑
If "Yes," see inst. K. Enter amount here _____

K. Did you at any time during the year own directly or indirectly any stock of a foreign corporation? ..... Yes ☐ No ☑
If "Yes," attach statement required by instruction N.

L. Amount of taxable income (or loss) for: 1962.. _____ 1963.. _____ 1964.. _____

M. Did you claim a deduction for expenses connected with:
(1) A hunting lodge ☐, working ranch or farm ☐, fishing camp ☐, resort property ☐, pleasure boat or yacht ☐, or other similar facility ☐? (Other than where the operation of the facility was the principal business.) Yes ☐ No ☑

(2) The leasing, renting, or ownership of a hotel room or suite ☐, apartment ☐, or other dwelling ☐, which was used by customers or employees or members of their families? (Other than use by employees while in business travel status.) Yes ☐ No ☑

(3) The attendance of your employees' families at conventions or business meetings? Yes ☐ No ☑

(4) Vacations for employees or members of their families? (Other than amount reported on Form W-2.) Yes ☐ No ☑

N. Refer to instructions and state the:
Principal business activity _____
Principal product or service WIRE & PLASTIC

O. Were you a member of a controlled group subject to the provisions of section 1561? Yes ☐ No ☐, or section 1562? Yes ☐ No ☐
If "Yes," check type of relationship:
(1) parent-subsidiary ☐
(2) brother-sister ☐
(3) combination of (1) and (2) ☐ (see section 1563)

P. Were you liable for filing Forms 1096 and 1099 or 1087 for the calendar year 1965? ..... Yes ☐ No ☐
If "Yes," where were they filed? _____

Q. Were distributions made to stockholders during the taxable year from other than (a) earnings and profits of the current year or (b) earnings and profits accumulated from February 28, 1913? Yes ☐ No ☐. If "Yes," was the determination made in accordance with Revenue Procedure 65-10? Yes ☐ No ☐

R. Was there any substantial change in the manner of determining quantities, costs, or valuations between opening and closing inventory? ..... Yes ☐ No ☐
If "Yes," attach explanation.

S. Were you a U.S. shareholder of any controlled foreign corporation? Yes ☐ No ☐ (see sections 951 and 957.) If "Yes," attach Form 3646 for each such corporation.

Form 1120 (1965) JA 164 Page 4

Schedule L—BALANCE SHEETS (See Instructions)

ASSETS	Beginning of taxable year (A) Amount	Beginning of taxable year (B) Total	End of taxable year (C) Amount	End of taxable year (D) Total
1. Cash				2,3,3.36
2. Notes and accounts receivable				
(a) Less allowance for bad debts				5089.75
3. Inventories				
4. Investments in Government obligations				
5. Other current assets (attach schedule)				
6. Loans to stockholders				
7. Other investments (attach schedule)				
8. Buildings and other fixed depreciable assets			2181.67	
(a) Less accumulated depreciation			727.22	1454.45
9. Depletable assets				
(a) Less accumulated depletion				
10. Land (net of any amortization)				
11. Intangible assets (amortizable only)				
(a) Less accumulated amortization				
12. Other assets (attach schedule)				
13. Total assets				53867.56
LIABILITIES AND CAPITAL				
14. Accounts payable				3657.99
15. Mtges., notes, bonds payable in less than 1 yr.				
16. Other current liabilities (attach schedule)				474.95
17. Loans from stockholders				
18. Mtges., notes, bonds payable in 1 yr. or more				
19. Other liabilities (attach schedule)				
20. Capital stock: (a) Preferred stock				
(b) Common stock			100.00	100.00
21. Paid-in or capital surplus (attach reconciliation)				
22. Surplus reserves (attach schedule)				
23. Earned surplus and undivided profits				12348.67
24. Total liabilities and capital				53867.56

ITEMIZED ENTRIES MADE BELOW MUST BE IDENTIFIED BY ACCOUNT

Schedule M-1—RECONCILIATION OF INCOME PER BOOKS WITH INCOME PER RETURN

1. Net income per books	12348.67	7. Income recorded on books this year not included in this return (itemize)	
2. Federal income tax	3482.94		
3. Excess of capital losses over capital gains			
4. Taxable income not recorded on books this year (itemize)		8. Deductions in this tax return not charged against book income this year (itemize)	
5. Expenses recorded on books this year not deducted in this return (itemize)			
6. Total of lines 1 through 5	15831.56	9. Total of lines 7 and 8	-0-
		10. Income (line 28, page 1)—line 6 less 9	15831.56

Schedule M-2—ANALYSIS OF EARNED SURPLUS AND UNDIVIDED PROFITS PER BOOKS (line 23, page 4)

1. Balance at beginning of year	-0-	5. Distributions: (a) Cash	
2. Net income per books	12348.67	(b) Stock	
3. Other increases (itemize)		(c) Property	
		6. Other decreases (itemize)	
4. Total of lines 1, 2, and 3	12348.67	7. Total of lines 5 and 6	
		8. Balance end of year (line 4 less 7)	12348.67

16—78809-1

NAME NASSAU PLASTICS AND WIRE CORP

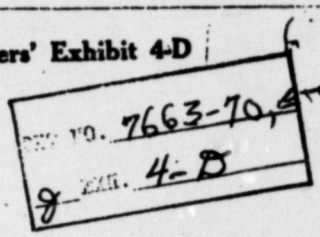
ADDRESS

Taxable Year Ended 6-30-66

SCHEDULE OF OTHER DEDUCTIONS			
OFFICE EXPENSE	225 80		
TELEPHONE	261 50		
TRAVEL	1410 20		
PROF. FEES	150 00		
INSURANCE	404 00		
SELLING + BUYING EXP.	1629 70		
FREIGHT	506 75		
MISC. EXP.	497 85		
POSTAGE + STATIONERY	762 60		
SUPPLIES	65 00		
TOTAL		5913 40	

SCHEDULE OF TAXES		
FEDERAL OLD AGE	115 00	
DISABILITY	(1 00)	
SALES	42 50	
LICENSE PLATES	39 75	
FRANCHISE	911 41	
TOTAL		1117 66

Petitioners' Exhibit 4-D



DRAFT

AGREEMENT made as of the 31st day of May, 1966, by and between the undersigned owners (hereinafter collectively called "Sellers") of all of the issued and outstanding shares of capital stock of NASSAU PLASTIC & WIRE CORP., a New York corporation (hereinafter referred to as the "Corporation"), and WILSON MOLD & DIE CORP., a New York corporation (hereinafter referred to as the "Purchaser");

WITNESSETH:

WHEREAS, the Sellers are the owners of all of the issued and outstanding shares of capital stock of the Corporation, and

WHEREAS, the Sellers desire to sell and the Purchaser desires to buy all of said stock ~~s~~ (hereinafter sometimes called "Shares");

NOW, THEREFORE, in consideration of the premises and of the mutual covenants herein contained, it is agreed as follows:

I. Sale and Purchase of Stock.

Subject to the terms and ~~xxxxxxxxxx~~ conditions of this Agreement, Sellers hereby sell to Purchaser and Purchaser hereby purchases from Sellers all of the issued and outstanding capital stock of the Corporation owned by Sellers.

II. Purchase Price and Installments.

(a) The purchase price for all of the stock sold pursuant hereto shall ~~xx~~ not less than $500,000. (hereinafter

called the "Minimum Price") nor more than $3,500,000. (hereinafter called the "Maximum Price").

(b) The purchase price shall be paid by Purchaser to Sellers at the following times, in the following manner and to the extent set forth below:

1. $ 50,000.00 on September 1, 1966.

2. For the balance of the year 1966 and in each of the years 1967 through 1971 inclusive, unless the Maximum Price be paid in full prior thereto; commencing with the 15th day of October, 1966 and on the 15th of each January, April, July and October thereafter in respect to the period from July 1, 1966 through June 30, 1971, an amount equal to 75 per cent of the Corporation's net income before Federal income taxes for each of such next preceding fiscal period or calendar year as the case may be. In the event a loss occurs in any quarterly period, said loss shall be utilized as an offset in the succeeding quarterly periods before payments to the Sellers are resumed.

3. In the period from July 1, 1971 and in each of the years 1972 through 1978 inclusive (terminating however for the quarter ended June 30, 1978) unless the Maximum Price shall have been paid in full prior thereto, an amount equal to 75 per cent of the Corporation's net income after provision for all taxes properly accruable for each of such next preceding fiscal period or calendar year.

4. In any event, and notwithstanding any provision

in this agreement with respect to the contingent deferral of installment payments of the Purchase Price, the full Minimum Price referred to above and any portion of the Maximum Price referred to above which Sellers may become entitled to receive shall be paid in full on or before July 15, 1978.

(c) Purchaser may prepay at any time after January 1, 1967, all or any part of the unpaid amount of the Maximum Price.

(d) Notwithstanding the provisions contained above for quarter-annual payments of the purchase price hereunder, Purchaser may make prepayments during any quarter-annual period on account of the next quarterly installment to become due pursuant to the terms of this agreement.

(e) All payments referred to herein to be made by Purchaser to Sellers on account of the purchase price shall be made by IRVING TRUST COMPANY (hereinafter called "Bank") in accordance with the terms of paragraph VIII of this agreement or in accordance with the Escrow Agreement provided for in said paragraph VIII.

(f) For the purposes of this agreement, the term "net income before Federal income taxes" or "net income after taxes" for any period shall mean the Corporation's net profits as determined by the independent accountants then retained by the Corporation in accordance with generally accepted accounting principles on a basis consistent with prior periods, but in

determing the net income after taxes, no deduction shall be made of any amounts in respect to Federal taxes unless such taxes are required to be paid.

(g) In each of the payments referred to in paragraph II, subdivision (b) "2", (b) "3", (b) "4", (c) and (d), shall be deemed to include interest at 4 per cent per annum on such payment to conform with the present Internal Revenue Service regulations. In the event the so-called "imputed interest" rules of the Internal Revenue Service are rescinded, voided or declared illegal or inoperative, then and in such event no part of the payments set forth shall be deemed to include, nor shall they include, any interest payments; and no interest shall thereafter be due and payable, nor, however, shall there be any reduction in any payment.

(h) In the event that the "net income" before Federal income taxes, as defined in subdivision (f) hereinabove, exceeds $350,000. for the fiscal year, then the Sellers shall receive an additional 2 per cent for all earnings over said $350,000. for such period. However, before such additional bonus of 2 per cent shall be paid the loss of any prior period shall first be utilized as an offset in computing said $350,000. In the event that in any quarterly period commencing after January 1, 1967 the net income before Federal income taxes, as defined hereinabove, falls below $50,000. per quarter, then and in any such event the minimum guaranteed price shall be reduced by the difference between $50,000. and the figure

in any quarter below said $50,000; for example: If for the quarter ending March 31, 1967 the net income before taxes is $35,000., then there shall be allowed as a deduction from the minimum price a credit of $15,000. so that the guaranteed price will become $485,000., and if at least $485,000. has been paid to the Sellers then title shall vest finally and absolutely in the Purchaser.

III. Events of Default.

If one or more of the following events (herein called "Events of Default") shall occur after the Closing Date and prior to payment in full of the purchase price:

(a) If default shall be made, and shall have continued for a period of 10 days after written demand from the Sellers to Purchaser, in the due and punctual payment of any amount owing on account of the purchase price, when and as the same shall become due and payable, unless at the time of such default there shall not be cash available in the treasury of the Corporation aggregating a total amount equal to at least 133-1/3 per cent of the installment then owing on account of the purchase price, or unless the Corporation shall have failed to declare and pay dividends as provided in paragraph X of this agreement, or unless such failure to declare a dividend has resulted from Purchaser's failure to request such declaration;

(b) If any material assets of the Corporation shall be mortgaged, pledged or otherwise disposed of other than as contemplated in this agreement or in the ordinary course of business or with the consent of the Sellers;

(c) If Purchaser shall:

1. Admit in writing its inability to pay its debts generally as they become due;

 (Item (c)2 continued on page 5)

2. File a petition in bankruptcy or a petition to take advantage of any insolvency act;

3. Make a general assignment for the benefit of its creditors;

4. Consent to the appointment of a receiver of itself or of the whole or any substantial part of its property;

5. File a petition or answer seeking reorganization or an arrangement under the Federal bankruptcy laws or any other applicable law or statute of the United States of America or any state thereof;

(d) If a court of competent jurisdiction shall enter a final order, judgment or decree adjudging Purchaser a bankrupt, or approving a petition filed against it seeking reorganization or arrangement of Purchaser under the Federal bankruptcy laws or under any other applicable law or statute of the United States of America or any state thereof;

(e) If a court of competent jurisdiction shall enter an interim order, judgment or decree appointing a trustee, liquidator or receiver of Purchaser or of the whole or substantiallly all of its property and such interim order, judgment or decree shall be in effect for an aggregate of 60 days;

(f) If, under the provisions of any other law for the relief or aid of debtors, any court of competent jurisdiction

shall by interim order, judgment or decree assume custody or control of Purchaser, or of the whole or substantially all of its property, and such custody or control shall be in effect for an aggregate of 60 days;

(g) If any representation or warranty made by Purchaser in this agreement shall prove to have been untrue in any material respect, unless such variance is curable and Purchaser shall cure it within a reasonable time after receipt of notice from the Sellers;

(h) If Purchaser shall breach any of the terms of this agreement or any other agreement between the parties which may be executed simultaneously herewith;

(i) If the Corporation, other than by or ~~thru~~ through Aaron Kraut or Harry Kraut, shall breach the employment agreement between it and said Aaron Kraut and Harry ~~Kraut~~ Kraut, provided for in paragraph _____ of this agreement;

(j) If Purchaser shall fail to reelect as directors of the Corporation Aaron Kraut and Harry Kraut (or, in the event either of them shall for any reason be unable or unwilling to serve, then a replacement agreeable to the Sellers);

(k) If, in any event, the Corporation shall, pursuant to the United States Code, Rules and Regulations now or hereinafter in effect be called upon to pay any tax, deficiency in

tax, or addition to tax, not otherwise chargeable to the Corporation, unless within 10 days after written demand by the Sellers to the Purchaser, the Purchaser makes due and punctual payment of such tax, deficiency in tax, or addition to tax;

then and in each and every such event, unless the occurrence of such Event of Default shall have been cured or shall have been waived by the Sellers, the Sellers may by written notice to Purchaser (which notice shall specify the Event of Default which shall have occurred) declare immediately due and payable the full unpaid balance of the Maximum Price, and upon any such declaration the same shall become and shall be immediately due and payable, anything herein contained to the contrary notwithstanding; provided, however, that at any time after the full unpaid balance of the Maximum Price shall have been so declared due and payable the Sellers may rescind and annul such declaration and its consequences. However, no such rescission and annulment shall extend to or affect any subsequent default or impair or exhaust any rights or powers consequent thereon. If Purchaser disputes the occurrence of the Event of Default it shall promptly so notify the Sellers in writing, with specification of its ground therefor, and the dispute shall be arbitrated as provided in paragraph XV hereof.

IV. Sellers' Representations and Warranties.

The Sellers represent, warrant and agree that:

(a) On the date of the execution of this agreement the Corporation is duly organized, validly existing and in good standing under the laws of the State of New York. The issued and outstanding capital stock of the Corporation is as follows:

NASSAU PLASTIC & WIRE CORP. -- Two hundred (200) shares of common stock, no par value.

(b) Each of the Sellers has good and valid title to the Shares of capital stock of which she is named as owner at the foot of this agreement and has the right and legal capacity to transfer good title to Purchaser and, both on the date of the execution of this agreement and on the Closing Date, the title will be and was free and clear of all liens, encumbrances and claims of others. None of the Sellers is a party to or restricted by, or obligated under any contract or other obligation which might be violated by the making or performing of this agreement.

(c) The financial statements and the certified public accountant's accompanying letters of transmittal attached thereto of the Corporation as at March 31, 1966, copies of which have been furnished to Purchaser, fairly present the such financial condition of the Corporation as at the date thereof, and the results of its operations for the period then ended, in conformity with generally accepted accounting principles applied on a basis consistent with that of preceding years.

obligations or liabilities, contingent or otherwise, except:

1. Those reflected in the balance sheet included in said financial statements, a copy of which is annexed hereto and made part hereof as Exhibit A.

(e) Between March 31, 1966 and the date of execution of this agreement, there have been no changes in the business of the Corporation or in its financial condition or properties other than the changes resulting from the ordinary course of business, none of which has been materially adverse, while in fact the Corporation has earned a minimum of $20,000. pretax for the month of _____ 1966 and projects a minimum average net income before taxes for the next ensuing twelve months of at least $20,000. per month. Between said date and the date of the execution of this agreement, the Corporation has not incurred any obligations or liabilities nor has the Corporation made any disbursements other than in the ordinary course of business, except that the Corporation is negotiating a written contract of employment with Aaron Kraut and Harry Kraut on terms and conditions substantially the same as their present oral agreement -- a copy of said proposed employment agreement is attached hereto and made a part hereof.

(f) The Corporation is not engaged in or threatened with any litigation or governmental proceedings not adequately and fully covered by insurance.

(g) Except as in the financial statements and

accompanying letters of transmittal from the Corporation's certified public accountant, attached hereto as Exhibit A, the Corporation has paid all of its obligations that have become due.

(h) The Corporation has good, marketable and valid title to all material assets owned by it, free and clear of all material liens, encumbrances and claims of others.

(i) The Corporation has complied substantially with all applicable federal and state laws relating to the employment of labor, including the provisions thereof relating to wages, hours, collective bargaining and the payment of social security taxes, and is not liable for any arrears of wages or any tax or penalties for failure to comply with any of the foregoing. There are no material controversies pending or threatened between the Corporation and any of its employees.

(j) Between March 31, 1966 and the date of execution of this agreement, the Corporation has not paid or declared any dividends on, or made any distribution in respect of, or purchased or redeemed any of its outstanding capital stock.

(k) On the date of execution of this agreement, the Corporation is not, and on the Closing Date the Corporation was not party to:

1. Any employment or other contract with any officer or director, other than as herein provided.

2. Any material contract with any person other than purchase and sale contracts and other commitments in the ordinary course of business, except for the contracts, leases and agreements described in Exhibit _____ hereof.

(l) Neither Seller has had any dealings with any person which would entitle such person to a finder's or brokerage fee in connection with this agreement or the transactions provided for herein, except MANAGEMENT METHODS, INC. whose fees shall be paid by Sellers who hereby indemnify Purchaser against any liability to it and against any claim of any person on account of a finder's or brokerage fee in connection with this sale. None of the Sellers has had any dealings with any person purporting to represent or speak for Purchaser other than Leon Lautin.

(m) The Corporation has paid all taxes imposed upon any of its income and has also paid all withholding taxes which it is required to pay, or has established reserves adequate for both purposes as shown by Exhibit A hereto attached and there is no unpaid deficiency in any income taxes up to and including the date of execution of this agreement. If any liability is hereafter assessed against the Corporation for income or withholding taxes respecting any period prior to the date of execution of this agreement, Sellers shall pay such assessment together with all interest and penalties and this covenant shall be for the benefit of both Purchaser and the Corporation.

V. Purchaser's Representations and Warranties.

Purchaser represents, warrants and agrees to and with the Sellers as follows:

(a) On the date of execution of this agreement, Purchaser is, and at the Closing Date was, a corporation duly organized, validly existing and in good standing under the laws of the State of New York.

(b) On the date of execution of this agreement, the execution by Purchaser is duly authorized by appropriate corporate action and it has, and will continue to have, full ~~x~~ power and authority to carry out the transactions contemplated by this agreement.

(c) The execution of this agreement by Purchaser, and the consummation by Purchaser of the transactions hereby contemplated, do not and will not violate any provision of law or of Purchaser's ~~x~~ Certificate of Incorporation or By-Laws or result in a breach of, or constitute a default under, any agreement, indenture, or other instrument to which Purchaser is a party or by which it or any of its property may be bound or affected.

(d) Purchaser will not cause the issuance of any additional shares of stock of the Corporation ~~xx~~ nor will it in in any way cause the collateral to be granted to Sellers hereunder to become less than all of the issued and outstanding capital stock of the Corporation.

VI. Conditions Precedent to Closing.

(a) Purchaser's obligation to complete the purchase of any of the Shares hereunder shall be subject to the performance by the Sellers of their agreements hereunder to be performed, on or before the Closing Date, to the material accuracy and correctness on the date of execution of this agreement and at settlement of the representations and warranties of the Sellers contained herein and to the further conditions that:

1. The Sellers shall have delivered to Purchaser at settlement a certificate of the Sellers to the effect that the representations and warranties of the Sellers as set forth in paragraph IV (a), (b), (e), (f), (g), (h), (i), (j), (k), (l), (m) of this agreement are true and correct as of the date of settlement and that the representations and warranties of the Sellers as set forth in paragraph IV (c), (d) are still, as of the date of settlement, true and correct as of the dates set forth in said paragraphs.

2. The Directors of Purchaser shall have authorized the execution and consummation of this agreement and the transactions contemplated hereby.

3. The By-Laws of the Corporation as at settlement shall provide:

(i) for a Board of Directors consisting of three (3) persons,

(ii) that no assets may be sold other than in the ordinary course of business without approval by the Selling Stockholders,

(iii) that the President shall be the chief executive officer of the Corporation, and

(iv) that the By-Laws may be amended only by the Board of Directors with the approval of the stockholders, but may not be amended to conflict with any of the provisions of this agreement.

(b) The Sellers' obligations to complete the sale of any capital stock of the Corporation hereunder shall be subject to the performance by the Purchaser of its agreements hereunder to be performed at settlement, to the material accuracy and correctness of the date of execution of this agreement and at settlement of the representations and warranties of Purchaser contained herein, and to the further conditions that Purchaser shall have delivered to the Sellers at settlement a certificate of Purchaser to the effect that the representations and warranties of Purchaser as set forth in paragraph V (a), (b), (c) are true and correct as of the date of settlement.

VII. Settlement.

(a) The settlement shall take place at the law offices of Eisenberg & Solomon at 41 East 42nd Street, New York, New York,

on the 24th day of June, 1966, as of the opening of business on July 1, 1966, which latter date is herein called the "Closing Date".

(b) At settlement Sellers shall:

1. Deliver the certificate required pursuant to paragraph VI (a) "1" hereof.

2. Deliver to Purchaser certificates representing all of the shares of capital stock sold pursuant hereto, which certificates shall be duly endorsed for transfer and shall have all appropriate federal and state transfer tax stamps affixed, at Sellers' cost.

3. Deliver to Purchaser resignations of all officers and directors of the Corporation.

(c) At settlement Purchaser shall:

1. Deliver the certificate required pursuant to paragraph VI (b) hereof.

2. Issue its non-interest bearing, non-negotiable note to Sellers for the payment to be made on September 1, 1966, as provided by paragraph II (b) "1" hereof.

VIII. Collateral Security.

Upon receipt by the Purchaser of the certificates for the Shares to be delivered to it at settlement, Purchaser shall cause new certificates to be issued in its name. The new certificates shall bear a legend on their face to the effect that, severally, a sale, assignment or hypothecation shall be subject to the terms of this agreement and such other agreements in connection herewith executed as of June 1, 1966, on file with the Corporation. Similarly, the stock transfer record book shall bear a notation that said certificates are held in escrow under the terms of the agreement and may be transferred only in accordance herewith. Purchaser shall deliver such new certificates, with stock powers affixed thereto duly endorsed in blank, to the Escrow Agent, as escrow agent hereunder, and shall irrevocably designate the Escrow Agent its agent to receive dividends and distributions in respect of the Shares and to endorse any drafts or checks representing such dividends. Purchaser shall nevertheless retain and be entitled to exercise all rights of ownership of the Shares, including but not limited to voting rights. The Escrow Agent shall hold such certificates in escrow (without transferring the Shares thereby represented on the books of the Corporation) as collateral security, for the payment by Purchaser of the purchase price and the fulfillment by Purchaser of its other obligations and liabilities hereunder and the Escrow Agent shall dispose of the dividends and distributions received in respect of the Shares represented by said certificates and said certificates (which

certificates, together with any additional Collateral Security received by the Escrow Agent during the escrow, are hereinafter sometimes called the "Collateral Security") as follows:

(a) Upon receipt by the Escrow Agent of any dividends or distributions in respect of the Shares other than in cash, the Escrow Agent shall retain the same in escrow as additional collateral security hereunder.

(b) Upon receipt by the Escrow Agent of any dividends or distributions in respect of the Shares in cash, the Escrow Agent shall pay the appropriate portion thereof in accordance with this agreement to the Sellers for Purchaser's account on account of the amount or amounts currently payable in respect of the unpaid amount of the purchase price. If any balance of said cash shall then remain, unless the Escrow Agent shall have received written notice from the Sellers pursuant to paragraph "III" hereof declaring the full unpaid amount of the purchase price to be immediately due and payable, the Escrow Agent shall pay such remaining balance to Purchaser.

(c) Upon the request of the Sellers after declaration of default as provided in paragraph "III" hereof (unless (1) such declaration shall have been rescinded and annulled as in said paragraph "III" provided, or (2) after such declaration Purchaser shall have delivered to the Escrow Agent either satisfactory proof of payment of the purchase price in full or notice that it disputes the occurrence of the Event of Default and satisfactory

evidence that it has initiated arbitration to determine the dispute), the Escrow Agent shall use its best efforts to sell the Collateral Security then held by it, at a private sale, to be conducted in its main banking offices, for the highest price bid at such sale for all property being sold. At any such sale, the Shares and any other Collateral Security then held by the Escrow Agent hereunder shall be offered for sale and sold only as an entirety. The Escrow Agent shall give Purchaser and the Sellers at least five (5) full business days notice of the time and place of any such sale, but any such sale may be made by the Escrow Agent without demand or performance, advertisement or any other notice to any other person. The Sellers shall have the right upon any such sale, to purchase the Collateral Security so sold, for their own account and without accountability to the Corporation, free from any right or equity of redemption in Purchaser, which right or equity is hereby expressly waived and released.

(d) The proceeds of any such sale, under paragraph "VIII" (c) hereof, shall be applied first to the payment of all expenses of sale, including the reasonable fees, reasonable expenses and reasonable counsel fees of the Escrow Agent; second, to the payment of any amount otherwise owing to the Escrow Agent as Escrowee hereunder; and third, to the payment of the unpaid amount of the purchase price and any other obligations or liabilities of Purchaser hereunder. Any balance of such proceeds then remaining shall be paid to Purchaser.

(e) Whether or not such proceeds shall be sufficient to pay in full the unpaid amount of the purchase price and all other liabilities and obligations of Purchaser hereunder, in the event of default Purchaser's liability for the purchase price or otherwise under this agreement shall not extend beyond the proceeds of the sale of the Collateral Security held by the Escrow Agent and Purchaser shall have no personal liability of any sort whatsoever for the payment of any deficiency to anyone; it being intended that, in the event of default, Purchaser's obligations under this agreement shall be enforceable only from the proceeds, if any, of the sale of the Collateral Security.

(f) In the event of default, Sellers shall not be required to return to Purchaser any payments which they have theretofore received hereunder on account of the purchase price and Purchaser shall not be required to pay to Sellers or to the Corporation any moneys received by or on behalf of Purchaser at any time from the Corporation.

(g) In making any paymennt hereunder, the Escrow Agent shall be entitled to rely upon the written advice of the independent accountants then retained by the Corporation as to the amount or amounts currently payable in respect of the unpaid ~~unk~~ amount of the purchase price. If, prior to making any payment on the basis of such advice, the Escrow Agent shall receive written request from either party for any payment inconsistent with said accountants' advice, or shall receive written notice of objection by either party to the making of any

payment, the Escrow Agent shall notify the other party concerned and shall withhold payment until either (1) written consent of both parties has been received, or (2) the rights of the Sellers and Purchaser shall have been finally determined by an arbitration tribunal, or finally adjudicated in a court, assuming and having jurisdiction of the parties or the subject matter. The Escrow Agent shall then make payment in accordance with such written consent, or the final award of the arbitration tribunal or the final judgment or decree of the court, as the case may be, upon receipt of the satisfactory evidence thereof.

(h) The escrow provided for herein shall terminate, and the responsibility of the Escrow Agent therefor shall cease, in any of the following events:

1. The sale of the Collateral Security and the distribution of the proceeds of sale, as provided in paragraph "VIII" (c) hereof.

2. The receipt by the Escrow Agent of termination instructions from both Purchaser and the Sellers and the payment of all amounts owing to the Escrow Agent as Escrowee or for Escrow services hereunder, in which event the Escrow Agent shall deliver any Collateral Security then held as stated in such instructions.

3. The receipt by the Escrow Agent of evidence of payment of all amounts payable by Purchaser pursuant to paragraph II hereof and the payment of all amounts owing to the

Escrow Agent hereunder, in which event the Escrow Agent shall deliver to Purchaser any Collateral Security then held by the Escrow Agent hereunder, in which event the Escrow Agent shall deliver to Purchaser any Collateral Security then held by the Escrow Agent hereunder, in due form for transfer; provided, however, that the Escrow Agent shall ~~xxxx~~ first give five (5) days written notice to Sellers and if Sellers shall within such period dispute that such payment has been made and submit said dispute to arbitration in accordance with this agreement, such Collateral Security shall not be delivered until said dispute is settled by final order of the arbitrators or a court having jurisdiction thereof.

(i) The Corporation shall pay all of the reasonable fees, reasonable expenses and reasonable counsel fees of the Escrow Agent in connection with the ~~xxxx~~ acceptance and performance of its duties as Escrow Agent.

(j) If the Escrow Agent so requests, the Sellers and Purchaser shall enter into a separate Escrow Agreement with the Escrow Agent for holding the Shares as Collateral Security for payment of the purchase price on such terms, conditions and provisions as shall be mutually agreeable, including but not limited to such other and further provisions as the Escrow Agent shall deem necessary or appropriate in its own interests. In the event of any conflict or inconsistency between the provisions of this agreement and any such separate Escrow ~~Agx~~ Agreement, the provisions of said separate Escrow Agreement shall prevail

and this agreement shall be deemed amended accordingly. The terms of the escrow provided for herein, whether embodied in this agreement or in any separate Escrow ~~Agm~~ Agreement, may be modified from time to time by instructions to the Escrow Agent given jointly by Purchaser and the Sellers in writing provided that no change affecting the obligations, duties, rights or compensation of the Escrow Agent may thus be made without the consent of the Escrow Agent.

(k) Anything hereinabove contained to the contrary notwithstanding, the Escrow Agent shall not be required to offer for sale or to sell the Collateral Security until it shall have received evidence satisfactory to it that such offering and sale would not require registration under the provisions of the Securities Act of 1933, as amended. If the Escrow Agent shall decline to offer the Collateral Security for sale, or to sell the Collateral Security, because it is not satisfied that such offering or sale would not require such registration, or if for any reason, other than the pendency of an arbitration proceeding with respect to the occurrence of the Event of Default involved, the sale of the Collateral Security shall not be effected within one hundred (100) days after receipt by the Escrow Agent of the Sellers' declaration of default, then in either such instance the Sellers shall have the right to repurchase the Shares for the price of $1.00. Upon such repurchase of the Shares by the Sellers, or if Sellers fail to repurchase, such retention of the Shares by Purchaser,

as the case may be, the parties shall have no further rights or obligations with respect to each other hereunder.

IX. Management.

Until the purchase price is fully paid, the parties hereto agree that the following conditions shall obtain in connection with the management of the business of the Corporation and that they will exert their best efforts to enable and cause the Corporation to carry out the terms of this agreement and to take all requisite action to give effect to the following provisions:

(a) The President of the Corporation shall be the Chief Executive officer of the Corporation and, without limitation thereto, shall have the authority to sign checks on behalf of the Corporation on all accounts of the Corporation and to borrow money on behalf of the Corporation in the ordinary course of business without necessity of signature or consent of any other person. Similarly, appropriate action shall be taken to designate such other signatory or signatories to sign checks on behalf of the Corporation as may be designated by the President of the Corporation.

(b) The accountants and attorneys for the Corporation shall be elected by the President of the Corporation.

(c) At the request of Purchaser, the Corporation shall be included in the x consolidated Federal income tax return of

Purchaser, and Purchaser agrees that, to the extent allowed by Federal income tax laws, it will include the operations of the Corporation in its consolidated Federal income tax returns for the period from July 1, 1966 and ~~af~~ thereafter while this agreement is in effect, so long as consolidated returns are filed. However, in no event shall the deduction for Federal income taxes provided for in paragraph II (f) hereof, in determining the net income after provision for all taxes properly accruable, be charged against the net proceeds of the Corporation in an amount in excess of the tax which would be chargeable against such proceeds without reference to the consolidated returns.

X. Withdrawals From the Corporation.

Until the purchase price shall have been paid in full, unless the payment of such dividends shall be prohibited by law, the parties shall cause the Corporation to pay from time to time such cash dividends on the stock sold hereunder as Purchaser shall request, provided, however, that the amount of any proposed dividend plus the aggregate amount of all cash dividends declared or paid after the Closing Date shall not exceed an amount equal to $_____ plus the net income of the Corporation from the Closing Date to the end of the calendar quarter ~~next~~ preceding the declaration of the proposed dividend. For the purposes of this paragraph, "net income" shall be computed before Federal income taxes for the period from the Closing Date to and including _____, and after all taxes properly accruable for

the period thereafter. The failure of the independent accountants then retained by the Corporation to submit to the Corporation and Purchaser, by _____ of each year, their report in respect to each of such next preceding quarterly period or calendar year, as the case may be, as required by paragraph II (b), "2," "3," and "4" of this agreement shall not prevent Purchaser from requesting, nor Corporation from paying, dividends in such amount as may be reasonably estimated by Purchaser and Sellers to be so declared in accordance with the provisions of this paragraph. In the event of a disagreement in the estimates by Purchaser and Sellers, the matter shall be submitted to arbitration as provided in paragraph "XV" hereof.

XI. Between the date hereof and settlement the Sellers shall supply to Purchaser such information concerning the Sellers as Purchaser may reasonably request, and shall provide reasonable access to the books and records of the Corporation.

XII. No announcement to the press shall be made and no other publicity shall be given or allowed with respect to the transactions provided for herein, except as shall have been agfeed upon by the Sellers and Purchaser.

XIII. There have been no representations made by either party except as stated herein. All representations and warranties and agreements made herein shall survive the Closing. Purchaser shall have the right, after ten (10) days notice and after

arbitration, if requested, to set off against any payments due hereunder on account of the purchase price any damages suffered by Purchaser and/or the Corporation by reason of a breach of a warranty made herein, obligation or liability of the Sellers to Purchaser resulting from any representation, warranty or agreement of either of the Sellers. There shall be no double recovery on account of any breach of warranty.

XIV. Service of process on either Seller in any matter arising under this Agreement shall be deemed valid service of process upon both of them.

XV. Any controversy or claim arising out of or relating to this contract, or the breach thereof, shall be settled by arbitration in accordance with the Rules of the American Arbitration Association, and judgment upon the award rendered by the arbitrator may be entered in any court having jurisdiction thereof.

XVI. All notices, consents, requests, approvals, instructions and other communications provided for herein shall be validly given or made if in writing and delivered personally or mailed, registered or certified mail with postage prepaid, to the person entitled or required to receive the same, at the following addresses:

(a) If to the Sellers to _____

_____, with a copy to:

or at such other addresses as Sellers shall notify Purchaser.

(b) If to Purchaser to _____

_____, with a copy to:

or at such other address as Purchaser shall notify the Sellers. Any such commmication shall be deemed to have been given or made as of the date of delivery.

XVII. From and after the Closing Date, all enterprises, agreements and rights of any nature whatsoever concerning Corporation and any activities carried on in connection with the business of the Corporation, whether such enterprises, agreements, rights and activities exist at the Closing Date or are indicated thereafter, shall be the property solely of the Corporation and all income, royalties and rights derived therefrom shall likewise be the sole property of the Corporation. Sellers and their husbands agree that none of them will engage, directly or indirectly, as an employee, agent, lender, investor or in any other manner or capacity, in a business ~~xxxxxxxxxxx~~ substantially competitive in any way with ~~xxxxx~~ the Corporation for a period which shall end on the earlier of:

(a) Two (2) years after the date on which the purchase price payable hereunder shall have been paid in full; or

(b) Default by Purchaser which shall not have been

either cured or waived as provided by the terms of this Agreement.

Nothing contained herein shall prohibit Sellers from engaging in any plastic and/or wire business not in substantial competition with the Corporation after the expiration of one (1) year after the date on which Purchaser shall have paid in full the balance due under this Agreement.

XVIII. As of on or before the Closing Date the Corporation shall enter into an employment agreement with Aaron Kraut and Harry Kraut.

XIX. This Agreement shall be construed and enforced in accordance with the laws of the State of New York.

XX. This Agreement may not be modified or discharged orally and shall be binding upon and inure to the benefit of the parties hereto, and their respective heirs, legal representatives, successors and assigns. Neither party may assign, sell or transfer its interest in this Agreement without the prior written consent of either party, except that neither party will unreasonably withhold its consent.

IN WITNESS WHEREOF, we have hereunto affixed our hands and seals this 31st day of May, 1966.

NASSAU PLASTIC & WIRE CORP.

BY Harry Kraut V.P.

Iris Kraut
IRIS KRAUT

WILSON MOLD & DIE CORP.

BY Leon Lattin

Marian Kraut
MARIAN KRAUT

Petitioners' Exhibit 5-E

AGREEMENT made the 15th day of June, 1966, by and between WILSON MOLD & DIE CORP. (hereinafter referred to as the "Assignor") and IRIS KRAUT and MARIAN KRAUT of 315 Virginia Avenue, Oceanside and 5602 Fresh Meadow Lane, Flushing, respectively, (hereinafter collectively called the "Sellers") and the CATHEDRAL OF TOMORROW, INC., an incorporated Church within the Evangelist Faith, of Cuyahoga Falls, Ohio (hereinafter called the "Buyer" or "Purchaser").

W I T N E S S E T H

WHEREAS, under date of May 31, 1966 the Assignor contracted to purchase all of the issued and outstanding shares of stock of NASSAU PLASTIC & WIRE CORP. (a New York corporation hereinafter referred to as the "Corporation"); and

WHEREAS, the Assignor is unable to proceed with the "Closing" on or before June 25, 1966 as set forth in that Agreement; and

WHEREAS, the Assignor and the Sellers have agreed that the Buyer shall be substituted for the Assignor in the purchase of the aforesaid shares of stock; and

DKT NO. 7663-70, ETC
EXH. 5-E

WHEREAS, the Purchaser and the Sellers have agreed to release the Assignor - providing however that the Purchaser assumes all of the duties and obligations of the Assignor under the contract dated May 31, 1966 as aforesaid, and further providing that the amendments and additions to that contract as herein - after set forth and approved by all the parties.

NOW, THEREFORE, in consideration of the premises and of the mutual covenants herein contained, it is agreed as follows:

ARTICLE FIRST:

A. The Purchaser does hereby assume all of the rights, duties and obligations of Wilson Mold & Die Corp. which arise under the Agreement dated May 31, 1966 by and between said Corporation and the Sellers.

B. The Sellers do hereby consent to said assignment and release the Assignor from any and all of its duties and obligations under said May 31, 1966 Agreement.

ARTICLE SECOND:

As inducement, each to the other, the parties

hereto do hereby consent to the amendments and additions to the May 31, 1966 Agreement as hereinbelow set forth and do further state that should any conflict in interpretation of rights, duties or obligations arise between the instant Agreement and that of May 31, 1966 then, and in any such event, the instant Agreement shall supersede that of May 31, 1966.

ARTICLE THIRD: DISSOLUTION AND LIQUIDATION OF NASSAU PLASTIC & WIRE CORP.

A. The Buyer shall take all such action as may be required so that on or as of June 25, 1966 Nassau Plastic shall be liquidated and all of its assets distributed to the Buyer. Simultaneously with the execution of this Agreement, the Buyer, with the consent of the stockholders and directors of the Sellers, shall take steps forthwith to accomplish the following:

(a) Create a separate operating-manufacturing unit, owned by the Buyer, to be denominated and known as Nassau Plastic (hereinafter sometimes interchangeably referred to as "Nassau Plastic & Wire Co." or the "Operating Unit" or "Operating Company"); the Buyer to

file such documents with the proper governmental authorities as may be necessary to effectuate the same.

(b) The name of Nassau Plastic & Wire Corp. shall be changed forthwith, to such name as the Buyer may designate.

B. A new corporation shall be formed simultaneously with the aforementioned change of name, to be known as Nassau Plastic & Wire Corp. To avoid confusion this corporation shall hereinafter sometimes interchangeably be referred to as the "Management Company" or "Management Corporation".

C. The Buyer and Sellers agree that they shall execute such consents, minutes and documents as may be necessary to aid in effectuating the above.

ARTICLE FOURTH: CONSIDERATION AND PAYMENT THEREOF.

A. There shall be no payment from the Purchaser to Wilson Mold & Die Corp., the Assignor. It has been agreed that the consideration for the assignment shall be the release of the Assignor and the assumption of the duties and obligations by the Purchaser.

B. The purchase price for all of the stock sold under this Agreement shall be not less than $500,000 (hereinafter called the "Minimum Price") nor more than $3 1/2 million (hereinafter called the "Maximum Price"). The purchase price shall be paid by the Purchaser to the Sellers at the following time in the following manner and to the extent set forth below:

(a) For the period from June 25, 1966 to July 1, 1966, 100% of the net income of the Corporation shall belong to the Sellers; the Purchasers shall receive credit for said amount toward the purchase price.

(b) $50,000 on or before August 1, 1966.

(c) For the balance of the year 1966 and in each of the years 1967 through 1976 terminating however on June 30, 1976 inclusive, unless the Maximum Price be paid in full prior thereto; commencing with the 15th day of October 1966 and on the 15th day of each January, April, July and October thereafter in respect to each preceding quarterly period from July 1, 1966 through June 30, 1976, an amount equal to 75% of the Corporations net income before Federal income

taxes for each of such next preceding fiscal periods. In the event a loss occurs in any quarterly period, said loss shall be utilized as an offset in each of the succeeding quarterly periods (until said loss has been recouped) before payments to the Sellers are resumed.

(d) In any event and notwithstanding any provision in this Agreement with respect to the contingent deferral of installment payments of the Purchase Price, the full Minimum Price referred to above and any portion of the Maximum Price referred to above which Sellers may become entitled to receive shall be paid in full on or before July 15, 1976.

(e) The Purchaser may prepay at any time all or any part of the unpaid amount of the Maximum Price.

ARTICLE FIFTH: CONSIDERATION - ADDITIONAL PROVISIONS.

A. The consideration for the common stock being purchased hereunder shall be computed in accordance with the provisions of this ARTICLE FIFTH and shall be paid to the Sellers in installments by check or checks of the Operating

Company, designated by the Buyer, to wit Nassau Plastic & Wire Co., within 15 days after receipt by the Buyer ~~and the Managing Corporation~~ of the statement of net income referred to in subparagraph (b) of this ARTICLE FIFTH. The operating unit shall issue its checks to Irving Trust Company of New York, which bank has agreed to disburse said checks to the Sellers, to the Buyer and others, all as listed in an agreement with the bank, hereinafter set forth as Exhibit " ". Upon the liquidation of Nassau Plastic into the Buyer on or as of June 25, 1966, the business operations and liabilities of Nassau Plastic shall be segregated for accounting purposes into the self contained unit which, as indicated in ARTICLE THIRD of this Agreement, and for the purpose of this Agreement is referred to as Nassau Plastic & Wire Co., the Operating Unit or the Operating Company.

B. For the purposes of this Agreement the net income of the Operating Company shall be computed on a quarterly basis with a fiscal year ending on June 30th of each year.

(a) There shall be paid 75% of the net earnings of the Operating Company as computed under the accounting principles set forth in subdivisions (b) and (c) of this ARTICLE FIFTH for each of the quarterly periods noted above.

(b) Computation of net income of Nassau Plastic & Wire Co. for the purposes of this ARTICLE FIFTH, the net income of the Operating Company shall be computed by the then certified public accountant(s) regularly employed by said Operating Company. Said accountant, not later than 15 days after the closing of the accounting period shall deliver to the Buyer, to the Sellers, to the Treasurer or Controller of the Operating Company ~~and to the Managing Corporation:~~ R.H. H.K. M.K. Q.K

1. A statement of the net income of the Operating Unit for the preceding period prepared by said certified public accountant(s), which statement shall classify in reasonable detail all items of income and deductions or expenses, and shall contain a statement by such accountant that such net income has been computed in accordance with the terms of this Agreement and otherwise in accordance with generally accepted accounting principles consistently applied; and

2. To the Treasurer, Comptroller or principal officer of the Buyer a certificate to the effect that the aforesaid statement is

correct to the best of his knowledge, information and belief. The aforesaid statement of such accountant(s) shall be conclusive in the determination of "net income" under the terms of this Agreement, unless within thirty (30) days after the receipt of any such statement either party shall notify the other (via registered mail, return receipt requested) that said party designates an independent Certified Public Accountant to make an independent determination of the net income covered by such statement. The party so requesting the independent audit shall bear the expense and pay the Certified Public Accountant so designated. The Certified Public Accountant so designated shall have the right to inspect the books and records of the Operating Company as pertain to such determination; said inspection to occur on the premises of the Operating Company during regular business hours. In the event said designated Certified Public Accountant(s) reach a different determination of the net income of the Operating Company, then the parties hereto will attempt to resolve such disagreement by negotiation. If such disagreement is

not thus resolved, then the Certified Public Accountant of the Sellers shall jointly designate a firm of independent Certified Public Accountant(s) (which has not been retained by either of the parties within the past ten (10) years) to act as arbitrator, and the decision of the arbitrator shall be binding upon both parties as if rendered in a Court of final jurisdiction. Each party shall pay his own accountant and one-half of the expenses of the arbitrator shall be paid by the Buyer and the other half by the Sellers.

(c) Certain Accounting Principles in Computing the net Income of the Operating Company:

Notwithstanding any reference in this Agreement to "generally accepted accounting principles" in computing the "net income" of the Operating Company for the purpose of ARTICLE FIFTH and this Agreement, the following principles shall govern:

1. No charge or deduction will be made for federal income taxes, but any other applicable Federal, State and Local taxes, actually paid, shall be charged;

2. Capital improvements made by the Operating Company or the Buyer, if any, on behalf of the Operating Company, shall be charged as an expense in the period in which said expenditures are made, but no charge shall be made for depreciation or amortization of these same Capital improvements;

3. Only those contingent liabilities and reserves consistent with the past practices of the Corporation (Nassau Plastic) shall be charged, unless the then attorney for the Operating Company ~~or the Management Company~~ (in the instance referred to in subdivision (b) hereinabove) gives his opinion that the Operating Company or the Buyer will be held financially responsible under lawsuits, actions or claims of third parties.

4. Interest payments made shall be charged against net income. Payments made with respect to amortization or reduction of principal of debt, if any, shall not be charged against income.

5. Each fiscal period will be treated

2. Capital improvements made by the Operating Company or the Buyer, if any, on behalf of the Operating Company, shall be charged as an expense in the period in which said expenditures are made, but no charge shall be made for depreciation or amortization of these same Capital improvements;

3. Only those contingent liabilities and reserves consistent with the past practices of the Corporation (Nassau Plastic) shall be charged, unless the then attorney for the Operating Company ~~or the Management Company~~ (in the instance referred to in subdivision (b) hereinabove) gives his opinion that the Operating Company or the Buyer will be held financially responsible under lawsuits, actions or claims of third parties.

4. Interest payments made shall be charged against net income. Payments made with respect to amortization or reduction of principal of debt, if any, shall not be charged against income.

5. Each fiscal period will be treated

independently for the purpose of determining net income hereunder. However, if the income of the Operating Company for any of the periods specified in subdivision (a) of this ARTICLE FIFTH shall be a deficit figure, the amount of such deficit shall be carried forward and treated as an expense of the succeeding periods for the purpose of determining the net income of such succeeding periods.

6. On and after April 15, 1967 the Buyer shall have the right to cause the sale, exchange or other disposition of all or substantially all of the assets and the business then in the name of Nassau Plastic & Wire Co., but such sale shall be subject to the terms and conditions of this Agreement and the agreements attached hereto (the "Purchaser" who buys from the Church) and made a part hereof and the Purchaser must expressly assume liability thereunder in writing. Duplicate originals of all such documents to be executed between the Buyer and the new Purchaser from the Buyer shall be delivered to the Sellers' attorney as indicated in this Agreement. In any such sale, exchange or other disposition the

R.H. A.K.

proceeds realized by the Buyer shall be treated as net income of the Operating Company for the purposes hereof and for the period or periods in which the transaction or transactions shall have occurred. In any such sale, exchange or other disposition (hereinafter referred to as "Transfer") the Seller shall receive an amount computed as follows:

(i) To the sum of the consideration paid to the Sellers to the date of such "Transfer" shall be added an amount so that (upon the Sellers being paid such amount) the Sellers would have received at least the minimum sales price referred to in this Agreement (which is $500,000); however if the average for the preceding two full quarterly periods, prior to such transaction when projected to the end of the contract would have resulted in payments to the Sellers in excess of said Minimum Price then and in such event to the sum of the consideration paid to the Sellers to the date of such "Transfer" shall be added an amount so that (upon the Sellers being paid such amount)

the Sellers would have received such amount equal to the projected sum hereinabove referred to but in no event more than the Maximum Price of $3 1/2 million. If the "Transfer" is for other than immediate full payment then 75% of any down payment plus 75% of any deferred payments (as shall be paid to the Sellers in accordance with the computations and the minimum and maximum limitations established in this subdivision. Nothing in this subdivision however shall prevent the sale of inventory or other assets in the ordinary course of business without the consent of the Sellers.

ARTICLE SIXTH: WORKING CAPITAL.

A. If, during the term of this Agreement, in the opinion of either the Buyer or the executive employees of Nassau Plastic, additional working capital is required for financial reasons, efficient operations, or to implement such Agreement, then and in such event the Buyer and said employees shall agree upon the amount

or amounts of such working capital. The Buyer shall attempt to obtain said working capital via a loan from a recognized bank at regularly established banking interest rates. The Sellers agree that, if requested by the lending bank, they will subordinate their collateral security to such bank loan. The interest on such bank loan shall be charged as an operating expense against the net income for the purposes for which it is paid.

ARTICLE SEVENTH: SECURITY TO THE SELLERS

A. Simultaneously with the acquisition by the Buyer from Nassau Plastic & Wire Corp., of all the assets and property of Nassau Plastic, the Buyer will secure its obligations hereunder to the Sellers by the execution and delivery, in favor of the Sellers, of security agreements covering all of the assets and property of Nassau Plastic & Wire Corp., including, but not limited to, the following: (1) accounts receivable; (2) equipment (including, but not limited to, machinery, office equipment, trucks and autos); (3) inventory; (4) debt instruments (including, but not limited to, notes evidencing loans receivable and mortgages); and (5) cash and bank accounts. Said security agreements shall be in form acceptable to the Sellers and their counsel.

All of the foregoing security agreements shall create liens in favor of the Sellers subject only to such prior liens which may exist as of June 25, 1966, and the rights of present and future general creditors for obligations arising in the regular course of business, and liens, collateral or security for the loan or loans advanced or to be advanced by any bank.

B. If by June 30, 1976 the Sellers shall have received an aggregate amount of not less than $500,000, then and in such event the Sellers shall cancel and satisfy of record all of the security agreements, financing agreements, mortgages and other documents evidencing any security interests in the assets of Nassau Plastic & Wire Co. (the Operating Company), and this Agreement shall terminate and come to an end.

C. All security agreements given pursuant to this clause shall comply with the State statutes where the assets, with respect to which such security agreements are given, are located.

ARTICLE EIGHTH: REPRESENTATIONS RE CONDUCT OF BUSINESS AND RESIGNATIONS OF OFFICERS AND DIRECTORS.

A. Between May 31, 1966 and the date hereof the Sellers warrant that Nassau Plastic has conducted its business

in the same manner as such business has been conducted heretofore and, except as stated herein or in the Exhibits and Agreements appended hereto, the Sellers have not:

(a) entered into any contract, commitment or undertaking except in the ordinary course of business;

(b) declared or made any distribution of any kind to its stockholders;

(c) made capital expenditures aggregating in excess of $ 5,000;

(d) entered into any contract or commitment for the future purchase of materials or supplies in excess of requirements for normal operating inventories;

(e) amended its Certificate of Incorporation or By-Laws;

(f) made any changes in the compensation payable to or to become payable to any of its officers, employees or agents;

(g) made any changes in its banking arrangements;

(h) granted or made any change in any pension plan, program or arrangement;

(i) issued any shares of capital stock or other securities.

B. Between May 31, 1966 and the date hereof Sellers have caused Nassau Plastic to utilize its best efforts to keep its business organizations intact, to keep available the services of its present employees and to preserve the good will of its licensors, suppliers, customers, dealers and others with whom it deals.

C. The Sellers shall cause a meeting of the Board of Directors of Nassau Plastic to be held forthwith and shall submit thereat the written resignations of the officers and directors.

ARTICLE NINTH: ADDITIONAL REPRESENTATIONS AND WARRANTIES BY SELLERS.

A. The Sellers, to the best of their knowledge and belief, jointly and severally, represent and warrant to the Buyer as follows:

(a) Nassau Plastic is a corporation duly organized and validly existing, in good standing, under the laws of the State of New York and has the full power and authority to own its assets and operate its business in the manner and in the places where such assets are presently located and such business is presently operated, and the nature of the business transacted by Nassau Plastic and the character of the assets owned by it do

not require the licensing or qualification of Nassau Plastic as a foreign corporation under the laws of any state, the District of Columbia, or any foreign jurisdiction.

(b) Nassau Plastic does not control, directly or indirectly, any other corporation, association or business organization and does not have any subsidiaries.

(c) All of the issued and outstanding shares of capital stock of Nassau Plastic have been validly issued, are duly outstanding, are fully paid and non-assessable.

(d) Each of the Sellers is the lawful owner of, and has full right, power and authority to transfer, sell and deliver the shares of stock being sold hereunder and the delivery of said shares to the Buyer will transfer valid title thereto, free and clear of all liens, encumbrances and claims of every kind whatsoever.

(e) Nassau Plastic has no commitment of any kind relating to the issuance of stock, whether by subscription, right of conversion, reorganization, option or otherwise.

(f) The Sellers have full right, power and authority to sell all of the shares of stock of

Nassau Plastic to be sold pursuant to the terms of this Agreement and such sale will not result in the breach of, or constitute a default under, or result in the creation of any lien, charge or encumbrance on the shares of stock to be sold as a result of, any existing agreement, indenture or other instrument to which the Sellers or Nassau Plastic are parties.

(g) The financial statements of Nassau Plastic for the period ending May 31, 1966 as prepared by (Lerner & Co, C.P.A.), copies of which have been delivered to the Buyer, are true and correct and complete and fairly present the financial condition of Nassau Plastic as of said date and the result of the operations of Nassau Plastic for the period covered by said Statements.

(h) Except as and to the extent reflected or reserved against in the said financial statements or revealed to the Buyer in writing prior to the date hereof, Nassau Plastic has not incurred any liability or obligation of any nature whether absolute, accrued, contingent or otherwise, and whether due or to become due, including, without limiting the generality of the foregoing, any liability for Federal, State or Local

income, excise, sales or other taxes, and the Sellers do not know and have no reasonable grounds to know of any basis for the assertion against Nassau Plastic of any liability of any nature or in any amount not fully reflected or reserved against in the said financial statements, except as have been heretofore revealed to the Buyer in writing, and except liabilities incurred in the ordinary course of business.

(i) Since the date of its incorporation Nassau Plastic has not declared any dividends, issued any stocks, bonds, options or any other corporate securities other than to the Sellers herein; incurred any liabilities or obligations, absolute or contingent, except as reflected on the balance sheet; mortgaged, pledged or subjected to lien, charge or any other encumbrances, any of its assets; sold or transferred any of its tangible assets other than in its ordinary course of business or cancelled any debts or claims; or suffered any extraordinary losses or knowingly waived any rights of substantial value.

(j) The Corporation has good and marketable title to all of its properties and assets.

(k) Nassau Plastic is not a party to or bound by any contract or agreement materially and adversely affecting the business, property, assets, operations or condition, financial or otherwise, of Nassau Plastic. Except as is set forth in Exhibit "A" attached hereto and made a part hereof, Nassau Plastic is not a party to any written or oral (1) employment contract with any officer or individual employee or any profit-sharing plan or bonus contract, which will have any effect after June 15, 1966, except that certain employees have regularly been receiving bonuses, (2) distributor or sales agency contract which is not terminable on thirty (30) days or less notice, (3) contract with a labor union, (4) continuing contract for the future purchase of materials, supplies or equipment in excess of the reasonably anticipated requirements of its business, (5) continuing contract for the future sale of products after June 15, 1966, (6) contract for the purchase of materials, supplies or equipment or for the sale of products which are at prices unfavorable to Nassau Plastic, or (7) lease, license or royalty agreement. Nassau Plastic is not in default under any contract, agreement or

other document referred to in said Exhibit "A"; the Sellers have no knowledge of any event, happening, state of facts or intention on the part of any person, affecting the agreements described in Exhibit "A" attached hereto, which might result in a materially adverse effect on the overall operations of the business of Nassau Plastic; and true and correct copies of all agreements and documents described in said Exhibit "A" will be delivered to the Buyer prior to June 25, 1966.

(l) There are no actions, suits or proceedings in any tribunal, whether or not purportedly involving Nassau Plastic, pending or threatened against or affecting Nassau Plastic at law or in equity or in admiralty or before or by any Federal, State, municipal or other governmental department, commission, board, bureau, agency or instrumentality, domestic or foreign. Nassau Plastic is not in default with respect to any order, writ, injunction or decree of any court or Federal, State, municipal or other governmental department, commission, board, bureau, agency or instrumentality, domestic or foreign.

(m) The business, properties and assets of Nassau Plastic have not, since May 31, 1966, been materially and adversely affected as a result of any fire, explosion, earthquake, accident, war, strike, lockout, requisition, or taking of property by the United States, or any agency thereof, flood, drought, embargo, riot, activity of armed forces or act of God or the public enemy.

(n) Since May 31, 1966, there has been no material change in the condition, financial or otherwise, of Nassau Plastic as reflected in the financial statements as of May 31, 1966, other than changes occurring in the ordinary course of business, which changes have not adversely affected its business, properties or financial position.

R.H.

ARTICLE TENTH: REPRESENTATIONS AND WARRANTIES BY THE BUYER.

The Buyer represents and warrants to the Sellers as follows:

(a) The Buyer is an incorporated, religious association duly formed and validly existing under the laws of the State of Ohio entitled to own its assets and to carry on its functions and activities

for Church and Sacerdotal purposes in the places where such assets are presently owned and such activities are presently conducted.

(b) The Buyer has full power and authority to enter into this Agreement and this Agreement when signed on behalf of the Buyer shall be a valid Agreement enforceable against it in accordance with its terms.

(c) The Buyer is exempt from taxation under Sections 501 and 511 of the Internal Revenue Code of 1954, and is so recognized under the Internal Revenue Code, and is not now engaged in, or threatened with any litigation or governmental proceeding aimed at the possibility of removing said exemption under the Internal Revenue Code.

(d) The Buyer is not now in default in the payment of any of its obligations.

(e) The Buyer has made an independent investigation and does not rely on any oral representations or warranties.

ARTICLE ELEVENTH: NATURE AND SURVIVAL OF REPRESENTATIONS, ETC.

A. All statements contained in any documents signed

by or on behalf of the Sellers, their counsel or by or on behalf of the Buyer or its counsel pursuant hereto or in connection with the transactions contemplated hereby shall be deemed representations and warranties by the Sellers and the Buyer, respectively, hereunder.

B. All representations and warranties by the Sellers and the Buyer shall be deemed to be made and shall be true and accurate on the date hereof. ~~All representations and warranties by the Buyer shall be true and accurate at the time of closing~~.

R.H. R.K.

ARTICLE TWELFTH: ACTION AT THE CLOSING.

A. The following transactions will take place at the closing:

(a) The Sellers shall deliver or cause to be delivered to the Buyer the following:

(1) Stock certificates for the shares of Stock of Nassau Plastic to be sold by the Sellers and purchased by the Buyer hereunder in transferable form, with the signature of the Sellers and with requisite Federal and State stock transfer stamps attached or accompanied by funds sufficient for the purchase

of such tax stamps if required by Federal or State Law, or the Buyer;

(2) The opinion of Leonard Eisenberg, counsel for the Sellers, dated June 15, 1966, in form and substance satisfactory to the Buyer, to the effect that

(i) Nassau Plastic is a corporation duly organized and validly existing under the laws of the State of New York;

(ii) The shares of Stock of Nassau Plastic being sold to the Buyer hereunder: (I) have been duly and validly issued, are validly outstanding, fully paid and non-assessable, and, under the laws of the State of New York, no liability attaches to the holders thereof; and (II) represent one hundred per cent (100%) of the issued and outstanding shares of capital stock of Nassau Plastic;

(iii) The sale and delivery of the shares of Stock of Nassau Plastic hereunder will not result, directly or indirectly, in the breach of or constitute a default under any agreement or instrument to which Nassau Plastic or the

Sellers are parties;

(iv) Each of the Sellers owns in her own right and has full power and legal authority to sell, transfer, convey and deliver to the Buyer the shares of stock of Nassau Plastic being sold hereunder in accordance with the terms of this Agreement;

(v) This Agreement has been duly executed and delivered by the Sellers and is a valid obligation of the Sellers legally binding upon and enforceable against them.

(3) The written resignations of all officers and/or directors of Nassau Plastic;

(4) Such other documents as may be required elsewhere in this Agreement, or required to effectuate the transactions herein contemplated.

(b) The Buyer shall deliver, or cause to be delivered to the Sellers the following:

(1) The opinion of Messrs. Brouse, McDowell, May, Bierce & Wortman, counsel for the Buyer, dated June 15, 1966, in form and substance satisfactory to the Sellers to the effect that

(i) The Buyer is an incorporated religious association duly and validly existing under the laws of the State of Ohio;

(ii) All proceedings by the Buyer required to be taken to enter into this Agreement, have been taken and such Agreement has been duly authorized and executed and delivered by the Buyer and are valid obligations of the Buyer legally binding upon and enforceable against it;

(iii) All corporate steps necessary to liquidate Nassau Plastic and distribute the assets of Nassau Plastic to the Buyer have been taken or will be taken as of June 15, 1966, and such liquidation and distribution will be effective as of such date;

(iv) The Buyer is exempt from taxation under Sections 501 and 511 of the Internal Revenue Code of 1954.

(2) A Certificate of the Buyer, dated as of June 15, 1966, stating that all representations and warranties made by the Buyer herein are true and correct, and

reciting that each condition set forth herein to be complied with by the Buyer has been complied with.

(3) Such other documents as may be required elsewhere in this Agreement, or required to effectuate the transactions herein contemplated.

(4) A Certificate or Certificates of the Secretary of State of the State of Ohio evidencing the corporate good standing of the Buyer in that State dated not earlier than

(5) A photostat of the Buyer's exemption certificate under the Internal Revenue Code.

(c) The Buyer shall take such steps satisfactory to counsel for the Sellers to liquidate or cause the liquidation of Nassau Plastic and the transfer of all of the assets of Nassau Plastic to the Buyer as of June 25, 1966.

(d) The Buyer shall enter into an Employment Agreement with Aaron Kraut and Harry Kraut in the form attached hereto as Exhibit "B" (hereinafter called the Employment Agreement).

ARTICLE THIRTEENTH: EVENTS OF DEFAULT.

The occurrence of any one of the following events will constitute an event of default (hereinafter called Events of Default):

(a) If the Buyer shall fail to make the minimum payments to the Sellers as set forth in this Agreement;

(b) If the Buyer shall default in any material obligations to the Sellers under this Agreement or default in payment of any sum due to the Sellers when due;

(c) Should the Buyer breach any of the provisions of its Employment Agreement with Aaron Kraut and Harry Kraut;

(d) If, without the consent of the Sellers, the Buyer shall mortgage, pledge, hypothecate, assign, or encumber, sell or dispose other than in the ordinary course of business, any of the assets herein sold to the Buyer and reassigned to the Sellers as collateral security for the performance of this contract, pursuant to the collateral security agreement to be executed at the closing and made a part hereof. (See Exhibit). Similarly, these restrictions shall be applicable to

all assets at any time acquired by the Operating Unit during the term of this Agreement.

In case any event of default occurs and is continuing the Sellers may at their option and upon 20 days' written notice to the Buyer (registered mail, return receipt requested) declare the entire remaining maximum amount of the purchase price immediately due and payable, and if such balance is not paid within the said 20 day period, Sellers may proceed to enforce payment against the collateral held by the Sellers as security and only out of said collateral in accordance with the security agreements to be given pursuant to ARTICLE . The Sellers' remedies hereunder are limited to those set forth in this ARTICLE THIRTEENTH and in the collateral security agreement (Exhibit) attached hereto, and in no event shall the Sellers seek any deficiency judgment or other judgment for damages against the Buyer.

ARTICLE FOURTEENTH: INVESTIGATION AND FINANCIAL INFORMATION.

The Sellers have afforded the Buyer free access to the offices, plants, books of account and copies of tax returns, etc. of Nassau Plastic for the purpose of conducting an investigation of its financial position, assets, liabilities, business

operations, properties, litigation, trademarks, licenses, copyrights and all other matters relating to its business, properties and assets, during which investigation the Buyer had the right to make copies of such records, tax returns and other materials as it deemed advisable. The Sellers also supplied the Buyer with all information, financial statements, etc., relating to Nassau Plastic which the Buyer requested.

ARTICLE FIFTEENTH: BROKERAGE.

The Sellers and Buyer acknowledge that the co-brokers involved in the transactions contemplated by this Agreement are MANAGEMENT METHODS INC. (whose principals are: Irving S. Lowey, Matt J. Rocker and Eugene O. Cobert) and such co-brokers shall be compensated in accordance with an Agreement or Agreements to be entered into between them and the Sellers and Buyer. It is acknowledged that for the facilitation of payments, all payments shall be made to IRVING TRUST COMPANY. and be disbursed by it pursuant to the separate banking agreements. Payment to IRVING TRUST COMPANY. shall relieve the Sellers from all liability and responsibility as to apportionment or division of said separate banking agreements.

ARTICLE SIXTEENTH: BANKING ARRANGEMENT.

The Buyer will deposit or cause the Operating Company ~~or Managing Company~~ to deposit at the times and in the manner as set forth in this Agreement (and as contained in ARTICLE FIFTH and the subdivisions thereof and other Articles of this Agreement) amounts equalling one hundred per cent (100%) of the annual net income realized by the Operating Company as computed under the terms and provisions of this Agreement. The Bank Account shall be opened in the 54th Street Branch of the Irving Trust Company (or any other branch suggested by Irving Trust Company) as a special account for the purpose of receiving and making the payments provided for hereunder. Simultaneously with the execution of this Agreement, an agreement with Irving Trust Company, concerning this account, has been executed and made a part hereof as if fully set forth herein. (See Exhibit " "). During the period that any bank loans are outstanding and payable to Irving Trust Company the Buyer shall cause the Operating Company to maintain its bank accounts at Irving Trust Company.

ARTICLE SEVENTEENTH: ACCELERATED PAYMENTS.

In the event the Buyer, in its sole discretion, so

desires, it may accelerate the payments to the Sellers by making the payments as stipulated in the following schedule, and upon making such payments it shall be deemed to be and shall be payment in full by the Buyer to the Sellers. In computing the payments listed herein, the Buyer shall receive credit for all payments to the Sellers up to and including the date it has exercised the option of making the payment in full per the following schedule:

For the period from the inception of this contract to December 31, 1967 the Buyer may exercise its option by paying a total, including payments previously made of $1,750,000.00.

For the period from January 1, 1968 to December 31, 1969, the sum of $2,750,000.00.

For any period thereafter the Maximum Price shall be paid.

ARTICLE EIGHTEENTH: IMPUTED INTEREST.

A. In the negotiation of this Agreement the parties have agreed in principle that the obligation of Buyer to make payments of the purchase price hereunder should not bear interest. However, the parties have been made cognizant of

the provisions of Section 483 of the Internal Revenue Code of 1954 (as added by Section 224 of the Revenue Act of 1964) which apparently requires that a portion of such purchase payments must be treated as interest for federal income tax purposes. Accordingly, the parties hereby provide for interest as follows:

(a) Buyer and Sellers hereby designate as interest such portion of the payments of purchase price hereunder as shall constitute the minimum interest element necessary to make inoperable Section 482 and the regulations thereunder, as they may be applicable from time to time to any payments required to be made under this contract of sale.

(b) To illustrate the foregoing the parties understand in the absence of regulations as follows: (1) Where no interest is provided by the parties to a contract of sale, a portion of deferred payments of purchase price will be treated as "unstated interest," computed at such rate, compounded semi-annually as the Secretary of Treasury, or his delegate, may prescribe by regulations. (2) The Secretary presently contemplates prescribing an interest rate of 5% per annum. (3) Section 483 shall not apply where a contract provides for interest

at a rate no more than one (1) percentage point lower than the rate prescribed by the Secretary. (4) If, and so long as, the rate prescribed by the Secretary, as applicable to payments hereunder, shall be 5% per annum, the portion of payments hereunder designated as interest shall be computed at a rate of 4% per annum. (5) Each payment hereunder would be treated separately under said Section 483(d) inasmuch as the amount and time of payment thereof is presently indeterminable. (6) Thus, for example, based upon the foregoing, if a payment of $10,000.00 should be made by the Buyer to the Sellers three years from the date of sale hereunder, approximately $8,880.00 would be designated hereunder as principal and $1,120.00 as interest, approximately.

(c) The statements made in (b) above are for illustrative purposes only and are not intended to vary the agreement between the parties set out in (a) above.

(d) The agreement set out in (a) above is intended to adjust itself automatically to any applicable changes in the provisions of Section 483 and the regulations thereunder, including the repeal thereof, or a determination that such provisions are unconstitutional, in which events no interest shall be due or payable hereunder.

ARTICLE NINETEENTH: ENTRY OF JUDGMENT UNDER ARBITRATION AGREEMENTS.

A. In any event under the terms of this Agreement, or any of the agreements attached hereto and made a part hereof, where an arbitration decision has been rendered, then and in such event judgment may be entered thereon in any court of competent jurisdiction in the State of New York.

B. Buyer does herewith submit to the jurisdiction of such court or courts and agrees that service upon it, via registered mail, return receipt requested, to the person and address hereinafter set forth, shall be deemed to be and shall be proper service conferring jurisdiction of the Buyer on said Court.

ARTICLE TWENTIETH: ADDITIONAL DOCUMENTS.

The Sellers, at the request of the Buyer, and the Buyer, at the request of the Sellers, shall execute and deliver such other assignments, transfers, conveyances and other instruments and do and perform such other acts and things as may, in the opinion of their respective counsel, be necessary or desirable for the purpose of effecting complete consummation of this Agreement and the transactions herein contemplated.

ARTICLE TWENTY-FIRST: EXPENSES.

Each party hereto shall bear his or its own expenses incident to the preparation and the carrying out of the terms of this Agreement including all fees of his or its own counsel and accountants.

ARTICLE TWENTY-SECOND: INVALIDITY OF ANY PROVISION.

In case any one or more of the provisions contained in this Agreement shall be invalid, illegal or unenforceable in any respect, the validity, legality and enforceability of the remaining provisions contained herein shall not in any way be affected or impaired thereby.

ARTICLE TWENTY-THIRD: ENTIRE AGREEMENT AND MODIFICATIONS.

This Agreement expresses the whole agreement between the parties, there being no representations, warranties or other agreements not herein expressly set forth or provided for. All references in this Agreement to representations and warranties shall mean representations and warranties made in this Agreement or other representations and warranties made in writing by the Sellers, Nassau Plastic, or others on their behalf, to the Buyer or by the Buyer, or others on its behalf

to the Sellers. No change or modification of or additions to this Agreement shall be valid unless the same shall refer specifically to this ARTICLE TWENTY-THREE and be in writing and signed by the parties hereto.

ARTICLE TWENTY-FOURTH: BINDING AGREEMENT.

A. This Agreement shall be binding upon and inure to the benefit of the Buyer, its successors and assigns and shall be binding upon and inure to the benefit of the Sellers, their heirs, legal representatives, successors and assigns. This Agreement shall not be assignable by the Sellers or the Buyer.

B. This Agreement and any Exhibits attached hereto and made a part hereof shall be interpreted under the laws of the State of New York.

ARTICLE TWENTY-FIFTH: ARTICLE HEADINGS, COUNTERPARTS, ETC.

All Article headings herein are inserted for the convenience of the parties only. This Agreement may be executed in several counterparts, each of which shall be deemed to be an original and which together will constitute one and the same instrument.

ARTICLE TWENTY-SIXTH: ARBITRATION.

Except as otherwise provided for in this Agreement, in the event of any difficulty, dispute or misunderstanding between the parties or their legal representatives, successors or assigns, concerning any matter or thing arising out of or in connection with the provisions of this Agreement, whether the same be the acts of the parties or their legal representatives, successors or assigns, or any other matter or thing affecting the rights of the parties hereto, including any alleged breach of this Agreement, or any of its provisions, such difficulty, dispute or misunderstanding shall be settled by arbitration in the City of New York in accordance with the rules of the AMERICAN ARBITRATION ASSOCIATION then obtaining, before a board of three (3) arbitrators and the majority award of such arbitrators shall be final and binding upon the parties hereto and their respective legal representatives, successors and assigns.

ARTICLE TWENTY-SEVENTH: NOTICES.

Any notices, requests, instructions or other documents to be given hereunder by the Sellers to the Buyer or by the Buyer to the Sellers shall, except as otherwise specifically provided herein be in writing and be delivered personally or

sent by registered mail, return receipt requested, as set forth below; or to such other addresses as may be designated by the respective parties herein by notice given in the same manner as required for notices in this same Article:

If to the Sellers, then to:

Iris Kraut
315 Virginia Avenue
Oceanside, Queens, N.Y.

and

Marian Kraut
5602 Fresh Meadow Lane
Flushing, Queens, N.Y.

with copies to:

Eisenberg & Solomon, Esqs.
41 East 42nd Street
New York, N.Y. 10017

If to the Buyer, then to:

Rev. Rex Humbard
Box 3500
Akron 10, Ohio

with copies to:

Charles R. Iden, Esq.
Messrs. Brouse, McDowell, May,
Bierce & Wortman
500 First National Tower
Akron, Ohio 44308

IN WITNESS WHEREOF, the parties hereto have hereunto set their hands and seals as of the day and year first

above written.

CATHEDRAL OF TOMORROW, INC.

BY _____

NASSAU PLASTIC & WIRE CORP.

BY _____ V.P.

_____
IRIS KRAUT

_____
MARIAN KRAUT

EMPLOYMENT AGREEMENT

Agreement made as of the 15th day of June, 1966, by and between CATHEDERAL OF TOMORROW, INC., and OHIO RELIGIOUS CORPORATION, doing business as NASSAU PLASTIC AND WIRE CO., (hereinafter called "Employer") and HARRY KRAUT and AARON KRAUT, individuals (hereinafter jointly and severally termed the "Employee").

WITNESSETH THAT:

The Employer desires to employ the Employees as its chief executive officers to manage and direct its business and affairs, and the Employees desire to perform such duties on behalf of the Employer, all subject to the terms and conditions hereinafter set forth.

NOW, THEREFORE, in consideration of the foregoing, and the mutual promises herein contained, the parties, intending to be legally bound hereby, agree as follows:

1. The Employer hereby employees the KRAUTS as its chief executive officers; AARON KRAUT to be retained as the production manager and the internal office manager while HARRY KRAUT be retained as the sales manager. Such services are to be for a period to commence on the date hereof, and to terminate one day after the date on which the Employer shall make the last payment of the purchase price provided for in an agreement of even date herewith between the CATHEDERAL OF TOMMOROW INC., as Purchaser, and IRIS and MARION KRAUT, as Sellers.

2. The compensation for each of the Emplcyees for the services to be performed hereunder shall be FIVE THOUSAND TWO HUNDRED ($5,200.00) DOLLARS per year, payable in equal weekly installments, plus an expense account to cover actual expenses incurred by him for and on behalf of the Corporation.

3. The two Employees shall have full authority and responsibility jointly and severally to direct the operations of the Employer in every respect. Without intending to limit the foregoing, the Employees are hereby specifically granted the power and authority to perform all of the following functions:

(a) To maintain such bank accounts as they may deem desirable and to designate all persons who shall be entitled to withdraw funds from such accounts.

(b) To borrow money on behalf of the Employer to the extent that such may be required in the ordinary course of Employers business.

(c) To select and employ the accountants and attorneys which will represent the Employer.

(d) To employ or discharge and to direct any and all bona fide personnel employed by, associated with, or acting as the independent contractor of the Employer, and to fix their rates and amount of compensation, bonus' or other rewards for services rendered in keeping with past practices.

(e) To accept or reject orders or contracts and generally to determine the contracts of Employers, suppliers and customers and generally to have the authority in accordance with the patterns heretofore established respecting business operations and administrative and financial practices.

4. The Employees agree that they shall use their best efforts to obtain financial statements with respect to each calendar year of Employers operations not later than August 1st, immediately following such fiscal year, which financial statements shall be prepared and certified by an independent accountant.

5. During the term of this agreement, the Employees shall devote such time as may be necessary to promote the business and welfare

of the company; it being understood and recognized that each of the individual Employees currently has other business interest and employment. It is specifically understood and agreed that all enterprises, licenses, agreements and rights of any nature whatsoever concerning ~~this~~ Nassau Plastics ~~business~~ and any activities carried on in connection with the business of the Employer, whether such enterprises, licenses, agreements, rights and activities exist at the date of this agreement or are initiated thereafter, shall be the property solely of Employer, and all income, royalties and rights derived therefrom shall likewise be the sole property of the Employer.

IN WITNESS WHEREOF, the parties have caused this agreement to be executed as of the day and year first written above.

NASSAU PLASTIC AND WIRE CO.

BY _____

_____
AARON KRAUT

_____
HARRY KRAUT

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Petitioners' Exhibit 7

FORM 1907 (REV. AUG. 1962) TRANSLUCENT	U. S. TREASURY DEPARTMENT - INTERNAL REVENUE SERVICE **PRELIMINARY STATEMENT**	DATE OF REPORT 7/17/68

NAME OF TAXPAYER(S): Aaron & Ira Krantz

NAME OF EXAMINER: M Shapiro

SUMMARY OF PROPOSED ADJUSTMENTS

YEAR ENDED (OR PERIOD)	INCOME TAX		OTHER TAX (Specify) DEF. OR (O/A)	PENALTIES - INCREASE OR (DECREASE)	PARTNERSHIP, FIDUCIARY OR SMALL BUS. CORP. INCOME INCREASE OR (DECREASE)
	DEFICIENCY	OVERASSESSMENT			
12/31/64	$ 1810.03	$	$	$	$
12/31/67	177 924 45				
TOTALS	$ 179,734.48	$	$	$	$

NET DEFICIENCY (Overassessment)	AGREEMENT SECURED	NAME OF PERSON WITH WHOM FINDINGS DISCUSSED
$ 179,734.48	NONE	S. Solomon, Atty

PRINCIPAL CAUSES OF CHANGES, AND OTHER INFORMATION

1. Assertion of Dividends from related Ira Wire & Cable Co
2. Adjustment of capital Gain
3. Assertion of additional income
4. Disallowance of deductions for:
   a) Contributions
   b) Sales Tax

U. S. TAX COURT
MARKED FOR IDENTIFICATION
ADMITTED IN EVIDENCE
NOV 12 1973
PETITIONER'S EXHIBIT 7
RESPONDENT'S EXHIBIT
DOCKET NO. 7663-79
ETC.

SCHEDULES AND/OR EXHIBITS ATTACHED

Schedules 1 to 6
(Pages 1 to 10

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FORM 1908 (REV. JULY 1964)	U. S. TREASURY DEPARTMENT - INTERNAL REVENUE SERVICE **ADJUSTMENTS TO INCOME**	SCHEDULE 1
NAME OF TAXPAYER Carroll Distributing		TAXABLE YEAR ENDED 12/31/61

1. ~~Adjusted gross~~ or taxable income reported on return ~~or as previously adjusted~~			$ 157,612.38
2. Additional income and unallowable deductions			
a	Dividend	$ 389.38	
c	Contributions	383.50	
d	Poll Tax	100.00	
			4 77.88
3. **TOTAL** - *(Line 1 and items under line 2)*			$ 160,990.26
4. Nontaxable income and additional deductions			
b	Capital Gain	$ 50.00	
			50.00
5. Corrected ~~adjusted gross~~ taxable income *(Line 3 minus total of items under line 4)*			$ 160940.26

GAINS OR (LOSSES)		NET GAIN OR (LOSS) UNDER SECTION 1231	NET LONG-TERM CAPITAL GAIN ~~OR (LOSS)~~	NET SHORT-TERM CAPITAL GAIN OR (LOSS)
6. Gains or (Losses) reported on return		$	$ 124,862.78	$
b	~~INCREASE~~ (DECREASE) Capital Gain		50.00	
7. Gains or (Losses) as corrected		$	$ 124817.78	$

U.S. GOVERNMENT PRINTING OFFICE : 1964 O—106-028

FORM 886-A (REV. MARCH 1966)	EXPLANATION OF ITEMS	SCHEDULE NO. OR EXHIBIT 1
NAME OF TAXPAYER Aaron & Iris Krauth		YEAR ENDED/PERIOD 12/31/66

a) Dividends $3894.38

1. For constructive dividend from Tris Wire & Cable Corp, per RAR dated 3/1/68, as follows:

Expenses disallowed on related corporation returns - per RAR. above $1775.75

Allocated to taxpayer 1/2 X 1775.75 = $3381.88

2. For constructive dividend from related Hassan Plastics & Wire Corp. - per RAR concurrently submitted

Disallowed 1013.00

Allocated to taxpayer 1/2 X 1013.00 = 506.50

Total dividend $3894.38

b) Capital gain $50-

To allow your cost of $100 for your capital stock of Hassan Plastics & Wire Corp sold June 25, 1966 by you. Taken into account 50% of $100 = $50 reduction of L.T.C.G.

c) Contributions $383.50

Deducted on returns 1965-

Substantiated and allowed 1881.50

Disallowed - 383.50

For cash Contributions not properly substantiated

d) Sales Tax $100-

e) To disallow excessive estimate of sales taxes deductions

FORM 1909 (REV. AUG. 1964)

U. S. TREASURY DEPARTMENT - INTERNAL REVENUE SERVICE

COMPUTATION OF INCOME TAX - INDIVIDUALS

SCHEDULE NO. 2

NAME OF TAXPAYER(S) Clancy J. McKraut

YEAR ENDED/PERIOD 12/31/66

1. Corrected ~~adjusted gross or~~ taxable income (From schedule 1)	$ 160940.26
2. If tax table is applicable: Tax on corrected adjusted gross income with 6 exemptions	$
3. If tax table is NOT applicable, tax on corrected taxable income - computed for: ☐ SINGLE PERSON ☐ SURVIVING SPOUSE ☐ HEAD OF A HOUSEHOLD ☐ MARRIED PERSONS FILING SEPARATELY ☒ MARRIED PERSONS FILING JOINTLY	$
4. Alternative tax, if computed (From schedule 3)	$ 72,803.76
5. Corrected applicable tax: Line 2, 3, or 4	$ 72,803.76
6. Less:	
A. Dividends received credit (From schedule)	$
B. Retirement income credit (From schedule)	
C. Investment credit (From schedule)	
D. Other allowable credits if deductions itemized: (From schedule)	
7. Balance: Line 5 less total of amounts in line 6	$ 72,803.76
8. Plus:	
A. Tax from recomputing prior year investment credit (From schedule)	$
B. Self-Employment tax on return or as corrected (From schedule)	
9. Corrected income tax liability - Line 7 plus Line 8	$ 72,803.76
10. Tax shown on return ~~or as previously adjusted~~	70,993.73
11. Statutory deficiency ~~or (overassessment)~~ - difference between Lines 9 and 10	$ 1,810.03

COMPUTATION OF ADDITIONAL TAX DUE OR OF NET OVERASSESSMENT

	SHOWN ON YOUR RETURN		AS CORRECTED	
12. Total income tax liability		$ 70,993.73		$ 72,803.76
13. Less net adjustments:				
A. Income tax withheld	$ 3,426.60		$ 3426.60	
B. F.I.C.A. tax credit	390.60		390.60	
C. Payments on estimated tax	64,250.00		64,250.00	
D. Regulated investment company undistributed capital gain credit				
E. Previous assessments	2926.53		2926.53	
F. Sum of amounts A through E	$ 70993.73		$ 70993.73	
G. Deduct previous refunds and/or credits	—	70,993.73	—	70,993.73
14. Additional tax or ~~(Net overassessment)~~		$ -0-		$ 1,810.03
15. Penalties or additions to the tax, if any				$

JA 246

FORM 1910 (REV. 6-58) TRANSLUCENT	U. S. TREASURY DEPARTMENT - INTERNAL REVENUE SERVICE COMPUTATION OF ALTERNATIVE TAX - INDIVIDUALS	SCHEDULE NO. 3

NAME OF TAXPAYER

Aaron & Jean Kraut

YEAR ENDED/PERIOD

12/31/65

TYPE OF RETURN

☐ SINGLE PERSON ☐ MARRIED PERSON FILING SEPARATELY ☐ HEAD OF A HOUSEHOLD ☒ MARRIED PERSONS FILING JOINTLY

	$
1. Corrected taxable income (line 5, Schedule 1)	160,940.26
2. LESS: 50% of excess of total net long-term capital gain over total net short-term capital loss	124,812.78
3. BALANCE	36,127.48
4. PARTIAL TAX: Line 3 not more than $2,000 (not more than $4,000, if joint return)—20% thereof. Line 3 more than $2,000 (more than $4,000, if joint return)—Use rates applicable	10,397.37
5. ADD: 50% of line 2	62,406.39
6. ALTERNATIVE TAX	72,803.76

REMARKS

☆U.S. GOVERNMENT PRINTING OFFICE : 1958 O - 469415

JA 247

FORM 1908 (REV. JULY 1964)	U. S. TREASURY DEPARTMENT - INTERNAL REVENUE SERVICE **ADJUSTMENTS TO INCOME**	SCHEDULE J
NAME OF TAXPAYER Aaron and Iris Kraut		TAXABLE YEAR ENDED 12/31/67

1. ~~Adjusted gross or~~ taxable income reported on return ~~or as previously adjusted~~ ..... $ 381,690.43

2. Additional income and unallowable deductions

a	Contributions	$ 385.00	
b	Sacco tax	100.00	
c	Other income	425747.92	
			426,232.92

3. **TOTAL** - *(Line 1 and items under line 2)* $ 807,923.35

4. Nontaxable income and additional deductions

d	Capital gain	$ 212,873.96	
			212,873.96

5. Corrected adjusted gross or taxable income *(Line 3 minus total of items under line 4)* $ 595049.39

GAINS OR (LOSSES)	NET GAIN OR (LOSS) UNDER SECTION 1231	NET LONG-TERM CAPITAL GAIN OR (LOSS)	NET SHORT-TERM CAPITAL GAIN OR (LOSS)
6. Gains ~~or (Losses)~~ reported on return	$	$ 345,056.88	$ 6729.28
d INCREASE (DECREASE) Capital Gain		212,873.96	1
7. Gains ~~or (Losses)~~ as corrected	$	$ 132,182.92	$

FORM 1908 (REV. 7-64)

Page _____

U.S. GOVERNMENT PRINTING OFFICE : 1964 O—705-025

TR P85

1

Aaron & Dies Kraut		Schedule D Year Ended	4-Av 12/31/67
d) Capital Gains - Sale of Kansas Electric Wire Co. for income received from Continental Investment, Inc. reported as long term capital gain and deemed ordinary income, as follows:			
	1966	1967	Total
Total collected	147500	1668275	
Expenses of collection	883750	5544166	
Reported as Long Term Cap. Gain at 100%	1396250	12129334	13525584
Reported as Capital Gain by Each ½ to Each - pro rata	6933125	6064167	6757479
Deemed ordinary income per Regulations 1.1245-6(c) above		425747 92	425747 92
Deemed Sale Price of Capital Asset	6933125	18066875	25000000
Basis of Cost	100		100
Capital gain realized at 100%	6923125	18066875	24990000
Long Term Capital Gain reported - 100%	6933125	6064167	6757479
Excess reported - 100%	100	425747 92	425847 92
Taken into account at 50% and allowed as decrease	50	21287396	21292396
Decrease allowed in 1967		21287396	

FORM 886-A (REV. MARCH 1966)	EXPLANATION OF ITEMS	SCHEDULE NO. OR EXHIBIT
NAME OF TAXPAYER		4A-1
Clarence & Iris Kent		YEAR ENDED/PERIOD 12/31/67

c) Contributions

	$ 385.00
Limitation allowed	1890.00
Disallowed	$ 385.00

To disallow cash contributions not properly supported.

d) Sales tax

To disallow sales tax estimate of $100.00 tax deduction.

e) Other income

For income received from Cathedral of Insurance, See reported gain and deemed ordinary income as follows:

Total Collected to 12/31/66	675 747.92
Deemed sales price of capital assets	250,000.00
Deemed ordinary income	425 747.92

JA 250

FORM 1909 (REV. AUG. 1964)

U. S. TREASURY DEPARTMENT - INTERNAL REVENUE SERVICE

COMPUTATION OF INCOME TAX - INDIVIDUALS

SCHEDULE NO. 5

NAME OF TAXPAYER(S) Charles & Rita Kurt

YEAR ENDED/~~PERIOD~~ 12/31/67

1. Corrected adjusted gross or taxable income (From schedule 4)	$ 595,044.34
2. If tax table is applicable: Tax on corrected adjusted gross income with 6 exemptions	$
3. If tax table is NOT applicable, tax on corrected taxable income - computed for: 387514.57 ☐ SINGLE PERSON ☐ SURVIVING SPOUSE ☐ HEAD OF A HOUSEHOLD ☐ MARRIED PERSONS FILING SEPARATELY ☒ MARRIED PERSONS FILING JOINTLY	$ 387,549.57
4. Alternative tax, if computed (From schedule _____)	$ 361,077.99
5. Corrected applicable tax: Line 2, 3, or 4	$ 361,077.99
6. Less:	
A. Dividends received credit (From schedule _____)	$
B. Retirement income credit (From schedule _____)	
C. Investment credit (From schedule _____)	
D. Other allowable credits if deductions itemized: (From schedule _____)	
7. Balance: Line 5 less total of amounts in line 6	$ 361,077.99
8. Plus:	
A. Tax from recomputing prior year investment credit (From schedule) _____	$
B. Self-Employment tax on return or as corrected (From schedule _____)	
9. Corrected income tax liability - Line 7 plus Line 8	$ 361,077.99
10. Tax shown on return or as previously adjusted	183,153.54
11. Statutory deficiency or (overassessment) - difference between Lines 9 and 10	$ 177,924.45

COMPUTATION OF ADDITIONAL TAX DUE OR OF NET OVERASSESSMENT

	SHOWN ON YOUR RETURN		AS CORRECTED	
12. Total income tax liability		$ 183,153.54		$ 361,077.99
13. Less net adjustments:				
A. Income tax withheld	$ 3489.20		$ 3489.20	
B. F.I.C.A. tax credit	519.20		519.20	
C. Payments on estimated tax	131000.00		131000.00	
D. Regulated investment company undistributed capital gain credit				
E. Previous assessments	48,145.14		48145.14	
F. Sum of amounts A through E	$ 183,153.54		$ 183,153.54	
G. Deduct previous refunds and/or credits		183,153.54	—	183,153.54
14. Additional tax or (Net overassessment)		$ —		$ 177,924.45
15. Penalties or additions to the tax, if any				$

FORM 1909 (REV. 8-64)

JA 251

FORM 1910 (REV. 6-58) TRANSLUCENT	U. S. TREASURY DEPARTMENT - INTERNAL REVENUE SERVICE **COMPUTATION OF ALTERNATIVE TAX - INDIVIDUALS**	SCHEDULE NO. 6

NAME OF TAXPAYER: Alvin Lowe & Shirley Nemetz

YEAR ENDED/PERIOD: 12/31/67

TYPE OF RETURN

☐ SINGLE PERSON ☐ MARRIED PERSON FILING SEPARATELY ☐ HEAD OF A HOUSEHOLD ☒ MARRIED PERSONS FILING JOINTLY

	$
1. Corrected taxable income (line 5, Schedule)	595044.37
2. LESS: 50% of excess of total net long-term capital gain over total net short-term capital loss	132,182.92
3. BALANCE	462,861.47
4. PARTIAL TAX: Line 3 not more than $2,000 (not more than $4,000, if joint return)—20% thereof Line 3 more than $2,000 (more than $4,000, if joint return)—Use rates applicable	294,986.53
5. ADD: 50% of line 2	66,091.46
6. ALTERNATIVE TAX	361,077.99

REMARKS

☆U.S. GOVERNMENT PRINTING OFFICE : 1958 O - 469415

Aaron & Iris Kraut
AU:R: 30D AUG 2 8 1968 JA 252

FORM 870
(REV. DEC. 1965)

U.S. TREASURY DEPARTMENT - INTERNAL REVENUE SERVICE

WAIVER OF RESTRICTIONS ON ASSESSMENT AND COLLECTION OF DEFICIENCY IN TAX AND ACCEPTANCE OF OVERASSESSMENT

DATE RECEIVED BY INTERNAL REVENUE SERVICE

Pursuant to section 6213(d) of the Internal Revenue Code of 1954 or corresponding provisions of prior internal revenue laws, the restrictions provided in section 6213(a) or corresponding provisions of prior internal revenue laws are hereby waived and consent is given to the assessment and collection of the following deficiencies, together with interest on the tax as provided by law; and the following overassessments are accepted as correct:

DEFICIENCIES

TAXABLE YEAR	TYPE OF TAX	AMOUNT OF TAX	PENALTY	
Dec.31,1966	Income	$ 1,810.03		
Dec.31,1967	Income	177,924.45		

OVERASSESSMENTS

TAXABLE YEAR	TYPE OF TAX	AMOUNT OF TAX	PENALTY	

NAME AND ADDRESS OF TAXPAYER(S) *(Number, street, city or town, State, ZIP Code)*

SIGNATURE — DATE

SIGNATURE — DATE

SIGNATURE — TITLE — DATE

By

Corporate Seal

NOTE: The execution and filing of this waiver will expedite adjustment of the tax liability as indicated above. It is not, however, a final closing agreement under section 7121 of the Internal Revenue Code and does not preclude assertion of a further deficiency in the manner provided by law if it is later determined that additional tax is due; nor does it extend the statutory period of limitation for refund, assessment, or collection of the tax.

Furthermore, execution and filing of this waiver will not preclude the taxpayer's filing under section 6511 of the Code a timely claim for refund or credit, on which (if disallowed by the Service) suit may be brought in the appropriate District Court or the U. S. Court of Claims.

If the waiver is executed for a year for which a JOINT RETURN OF A HUSBAND AND WIFE was filed, it must be signed by both husband and wife unless one, acting under a power of attorney, signs as agent for the other.

If the taxpayer is a corporation, the waiver must be signed with the corporate name followed by the signature and title of the officer(s) duly authorized to sign. It is not necessary that the corporate seal be affixed. The space provided for the seal is for the convenience of corporations required by charter or by the laws of the jurisdiction in which they are incorporated to affix their corporate seals in the execution of instruments.

The waiver may be executed by the taxpayer's attorney or agent provided such action is specifically authorized by a power of attorney which, if not previously filed, must accompany the form.

If the waiver is executed by a person acting in a fiduciary capacity (such as executor, administrator, trustee, etc.), Form 56, "Notice of Fiduciary Relationship," should, unless previously filed, accompany this form.

GPO : 1967 O - 188-280

Department of the Treasury
Internal Revenue
Service Center

ANDOVER, MASS. 01812

22 MS2 1115

L 087180227 6612 670

AARON & IRIS KRAUT
315 VIRGINIA AVE
OCEANSIDE N Y 11572

Date	JAN. 31, 1969
Identifying Number	087-18-0227
Document Locator Number	11247-004-05103-9
Form Number	1040
Tax Period Ended	DEC. 31, 1966

If you inquire about your account, please refer to these numbers or attach this notice.

ACCOUNT ADJUSTMENT BILL FOR TAX DUE

~~BALANCE DUE ON ACCOUNT BEFORE ADJUSTMENT~~ ~~$.00~~

ADJUSTMENT COMPUTATION

TAX- INCREASE	1,810.03	
INTEREST CHARGE ON THIS ADJUSTMENT	194.81	
NET ADJUSTMENT CHARGE		2,004.84
BALANCE DUE		$2,004.84

fdcl # 775

K.M

The letter(s) in the box at the left identify the statement(s) on the back of this notice which provide further explanations and instructions.

Form 4188 (Rev.10-68)

Petitioners' Exhibit 8

FORM 1907 (REV. DEC. 1958) TRANSLUCENT	U. S. TREASURY DEPARTMENT - INTERNAL REVENUE SERVICE **PRELIMINARY STATEMENT**	DATE OF REPORT 7/15/68

NAME OF TAXPAYER(S): Harry & Marion Kraut

NAME OF EXAMINER: M Shapiro

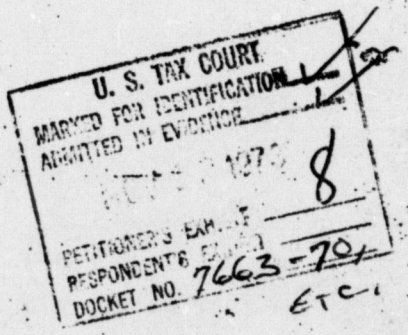
SUMMARY OF PROPOSED ADJUSTMENTS

YEAR ENDED (~~OR PERIOD~~)	INCOME TAX: DEFICIENCY	INCOME TAX: OVERASSESSMENT	OTHER TAX (Specify) DEF. OR (O/A)	PENALTIES - INCREASE OR (DECREASE)	PARTNERSHIP OR FIDUCIARY INCOME INCREASE OR (DECREASE)
12/31/56	$ 1848.89	$	$	$	$
12/31/57	182,032.14				
TOTALS	$ 183881.03	$	$	$	$

NET DEFICIENCY (Overassessment)	AGREEMENT SECURED	NAME OF PERSON WITH WHOM FINDINGS DISCUSSED
$ 183,881.03	NONE	S. Solomon, Attorney

PRINCIPAL CAUSES OF CHANGES, AND OTHER INFORMATION

1. Assertion of Dividends from related Trs Were & Castle Corp.
2. Adjustment of capital gain
3. Assertion of additional income
4. Disallowance of deductions for:
   a) Contributions
   b) Sales Tax



SCHEDULES AND/OR EXHIBITS ATTACHED

Schedules 1-6, Ex 1-10

* U. S. GOVERNMENT PRINTING OFFICE : 1959 O—450452

JA 25

	ADJUSTMENTS TO INCOME	SCHEDULE 1
		TAXABLE YEAR ENDED 12/31/
		$ 157.22
	$ 2694.27	
	453.50	
		1,497.87
3. TOTAL - *(Line 1 and items under line 2)*		$ 1,732.27
4. Nontaxable income and additional deductions		
c Capital gain	$ 50.00	
		50.00
5. Corrected adjusted gross or taxable income *(Line 3 minus total of items under line 4)*		$ 1682.27

GAINS OR (LOSSES)	NET GAIN OR (LOSS) UNDER SECTION 1231	NET LONG-TERM CAPITAL GAIN OR (LOSS)	NET SHORT-TERM CAPITAL GAIN OR (LOSS)
6. Gains or (Losses) reported on return	$	$ 123,409.27	$ 2532.90
C INCREASE (DECREASE) Capital gain		50.00	
7. Gains or (Losses) as corrected	$	$ 123,359.27	$ 2532.90

FORM 886-A (REV. MARCH 1966)	EXPLANATION OF ITEMS	SCHEDULE NO. OR EXHIBIT 1-A
NAME OF TAXPAYER		YEAR ENDED/PERIOD
Harold and Marion Grant		12/31/66

a) Dividends $3894.37

1. - For constructive dividend from Tru-Wire and Cable Co., per R.A.R. dated 3/1/68, as follows:

Expenses disallowed on related corporation return per R.A.R. alone 6775.75

Allocated to taxpayer 1/2 X 6775.75 $3387.87

2. For constructive dividend from related Marion Plastics-Wire Corp per R.A.R concurrently submitted, as follows:

Expenses disallowed - deemed personal 1013-

Allocated to taxpayer 1/2 X 1013- = 506.50

Total Dividend $3894.37

b) Contributions $403.50

Deducted on return $ 765-

Substantiated and allowed 1861.50

Disallowed $ 403.50

To disallow cash contributions not properly supported.

c) Capital gain $50-

To allow cost of $100 for your capital stock of Marion Plastics and Wire Corp. Sold by you June 25, 1966 and taken into account at 50% as long term capital gain

FORM 1909 (REV. AUG. 1967)

U. S. TREASURY DEPARTMENT - INTERNAL REVENUE SERVICE

COMPUTATION OF INCOME TAX - INDIVIDUALS

SCHEDULE NO. 2

NAME OF TAXPAYER(S): Harold Marcus Kraut

YEAR ENDED/~~PERIOD~~: 12/31/66

1. Corrected ~~adjusted gross or~~ taxable income (From schedule 1)	$ 161,652.27
2. If tax table is applicable: Tax on corrected adjusted gross income with 5 exemptions	$
3. If tax table is NOT applicable, tax on corrected taxable income - computed for: ☐ SINGLE PERSON ☐ SURVIVING SPOUSE ☐ HEAD OF A HOUSEHOLD ☐ MARRIED PERSONS FILING SEPARATELY ☐ MARRIED PERSONS FILING JOINTLY	$
4. Alternative tax, if computed (From schedule 3)	$ 73,051.48
5. Corrected applicable tax: Line 2, 3, or 4	$ 73,051.48
6. Less:	
A. Dividends received credit (From schedule)	$
B. Retirement income credit (From schedule)	
C. Investment credit (From schedule)	
D. Other allowable credits if deductions itemized: (From schedule)	
7. Balance: Line 5 less total of amounts in line 6	$ 73,051.48
8. Plus:	
A. Tax from recomputing prior year investment credit (From schedule)	$
B. Self-Employment tax on return or as corrected (From schedule)	
9. Corrected income tax liability - Line 7 plus Line 8	$ 73,051.48
10. Tax shown on return or as previously adjusted	71,202.59
11. Statutory deficiency or ~~(overassessment)~~ - difference between Lines 9 and 10	$ 1848.89

COMPUTATION OF ADDITIONAL TAX DUE OR OF NET OVERASSESSMENT

	SHOWN ON YOUR RETURN		AS CORRECTED	
12. Total income tax liability		$ 71,202.59		$ 73,051.48
13. Less net adjustments:				
A. Income tax withheld	$ 3755.40		$ 3755.40	
B. F.I.C.A. tax credit	390.60		390.60	
C. Payments on estimated tax	66,250.00		66,250.00	
D. Regulated investment company undistributed capital gain credit				
E. Previous assessments	806.59		806.59	
F. Sum of amounts A through E	$ 71,202.59		$ 71,202.59	
G. Deduct previous refunds and/or credits	—	71,202.59	—	71,202.59
14. Additional tax or (Net overassessment)		$ -0-		$ 1848.89
15. Penalties or additions to the tax, if any				$

JA 258

FORM 1910 (REV. JULY 1964)	U. S. TREASURY DEPARTMENT - INTERNAL REVENUE SERVICE **COMPUTATION OF ALTERNATIVE TAX - INDIVIDUALS**	SCHEDULE NO. 3
NAME OF TAXPAYER Harold Marcus Kramer		YEAR ENDED 12/31/66

TYPE OF RETURN

☐ SINGLE PERSON ☐ SURVIVING SPOUSE ☐ HEAD OF A HOUSEHOLD ☐ MARRIED PERSON FILING SEPARATELY ☒ MARRIED PERSONS FILING JOINTLY

	$
1. Corrected taxable income (line 5, Schedule 1)	161,652.27
2. **LESS:** 50% of excess of total net long-term capital gain over total net short-term capital loss	123,359.22
3. **BALANCE**	38,293.05
4. **PARTIAL TAX:**	11,371.87
5. **ADD:** 50% of line 2	61,679.61
6. **ALTERNATIVE TAX**	$73,051.48

REMARKS

FORM 1908 (REV. JULY 1964)	U. S. TREASURY DEPARTMENT - INTERNAL REVENUE SERVICE **ADJUSTMENTS TO INCOME**	SCHEDULE 4

NAME OF TAXPAYER: Harry & Marion Kraut

TAXABLE YEAR ENDED: 12/31/67

1. ~~Adjusted gross or~~ Taxable income reported on return ~~or as previously adjusted~~			$ 402,610.96
2. Additional income and unallowable deductions			
a	Cont. Letters	$ 385.00	
b	Sales Tax	50.00	
c	Other income	425,747.92	
			426,182.92
3. TOTAL - *(Line 1 and items under line 2)*			$ 828,793.88
4. Nontaxable income and additional deductions			
d	Capital Gain	$ 213,018.46	
			213,018.46
5. Corrected adjusted ~~gross~~ or taxable income *(Line 3 minus total of items under line 4)*			$ 615,775.42

GAINS ~~OR (LOSSES)~~	NET GAIN OR (LOSS) UNDER SECTION 1231	NET LONG-TERM CAPITAL GAIN ~~OR LOSS~~	NET SHORT-TERM CAPITAL GAIN OR (LOSS)
6. Gains ~~or (losses)~~ reported on return	$	$ 345,305.06	$ 24096.94
d ~~INCREASE~~ (DECREASE)		213,018.46	
7. Gains ~~or (losses)~~ as corrected	$	$ 132,286.60	$ 24096.94

U.S. GOVERNMENT PRINTING OFFICE : 1964 O—180-033

FORM 886-A (REV. MARCH 1966)	EXPLANATION OF ITEMS	SCHEDULE NO. OR EXHIBIT 4-A1
NAME OF TAXPAYER Harry & Marion Kraut		YEAR ENDED/PERIOD 12/31/67

a) Contributions $385.00

Deduction return	$2100.00
Substantiated & allowed	1715.00
Disallowed	385.00

To disallow cash contributions not properly supported

b) Sales Tax 50.00

To disallow excessive estimate of sales tax reduction

c) Other income 425,747.92

For income received from Cathedral of Tomorrow, Inc. reported as a long term capital gain and deemed ordinary income as follows:

Total Collected to 12/31/66	$675,747.92
Deemed Sales Price of capital assets	250,000.00
Deemed ordinary income	425,747.92

Explanation of Items

Name of Taxpayer Kraut — Schedule Year Ended 4-A 12/31/67

D) Capital Gain — 213018.46

1. Taxpayer received from Cathedral & Amor reported as long term capital gain and deemed ordinary income, as follows:

	1966	1967	Total	Adjustments
Total collected	147500	126827.75		
Expenses of collection	8337.50	5544.166		
Net reportable income	139162.50	121283.334	1351495.84	
Reported - Sch Rpt - 1/2 Excl 9/4	69331.25	606416.67	675747.92	
Deemed ordinary income - per adjustment C)		62747.92	425747.92	
Deemed proceeds of sale of capital assets 9/4	69331.25	180668.75	250000 —	
Cost basis allowed	100	—	100 —	
Capital Gain realized - 100%	69231.25	180668.75	249900 —	
Lg Term Capital Gain reported	69331.25	606416.67	675747.92	
Excess reported - 100%	100 —	425747.92		
Taken into account - 50%	50	212873.96		
Decrease Allowed in 1967		212873.96		212873.96

2. Error in Computation of Gain Reported

Long term capital gain reported	1903212	
50% taken into account	951606	
Corrected	345160.56	
Per return	345305.06	
Excess reported at 50% and allowed as decrease	144.50	144.50

Total decrease Long term capital gain allowed — 213018.46

JA 262

FORM 1910 (REV. JULY 1964)	U. S. TREASURY DEPARTMENT - INTERNAL REVENUE SERVICE **COMPUTATION OF ALTERNATIVE TAX - INDIVIDUALS**	SCHEDULE NO. 6

NAME OF TAXPAYER: Harry Marvin Grant

YEAR ENDED: 12/31/67

TYPE OF RETURN: ☐ SINGLE PERSON ☐ SURVIVING SPOUSE ☐ HEAD OF A HOUSEHOLD ☐ MARRIED PERSON FILING SEPARATELY ☒ MARRIED PERSONS FILING JOINTLY

	$
1. Corrected taxable income (line 5, Schedule 4)	615775.47
2. **LESS:** 50% of excess of total net long-term capital gain over total net short-term capital loss	13,286.60
3. **BALANCE**	482488.87
4. **PARTIAL TAX:**	309,422.17
5. **ADD:** 50% of line 2	66,143.30
6. **ALTERNATIVE TAX**	375,565.47

REMARKS

19
(REV. Aug. 1964)

U. S. TREASURY DEPARTMENT INTERNAL REVENUE SERVICE

COMPUTATION OF INCOME TAX - INDIVIDUALS

SCHEDULE NO. 5

NAME OF TAXPAYER(S) Harold J. Blanchard

YEAR ENDED ~~PERIOD~~ 12/31/67

1. Corrected ~~adjusted gross or~~ taxable income (From schedule 4)	$ 615,775.47
2. If tax table is applicable: Tax on corrected adjusted gross income with 5 exemptions	$
3. If tax table is NOT applicable, tax on corrected taxable income - computed for: ☐ SINGLE PERSON ☐ SURVIVING SPOUSE ☐ HEAD OF A HOUSEHOLD ☐ MARRIED PERSONS FILING SEPARATELY ☒ MARRIED PERSONS FILING JOINTLY	$
4. Alternative tax, if computed (From schedule 6)	$ 375,565.47
5. Corrected applicable tax: Line 2, 3, or 4	$ 375,565.47
6. Less:	
A. Dividends received credit (From schedule)	$
B. Retirement income credit (From schedule)	
C. Investment credit (From schedule)	
D. Other allowable credits if deductions itemized: (From schedule)	—
7. Balance: Line 5 less total of amounts in line 6	$ 375,565.47
8. Plus:	
A. Tax from recomputing prior year investment credit (From schedule)	$
B. Self-Employment tax on return or as corrected (From schedule)	
9. Corrected income tax liability - Line 7 plus Line 8	$ 375,565.47
10. Tax shown on return or as previously adjusted	193,533.33
11. Statutory deficiency or (overassessment) - difference between Lines 9 and 10	$ 182,032.14

COMPUTATION OF ADDITIONAL TAX DUE OR OF NET OVERASSESSMENT

	SHOWN ON YOUR RETURN		AS CORRECTED	
12. Total income tax liability		$ 193,533.33		$ 375,565.47
13. Less net adjustments:				
A. Income tax withheld	3876.10	—	3876.10	
B. F.I.C.A. tax credit	519.20		519.20	
C. Payments on estimated tax	161,000.00		161,000.00	
D. Regulated investment company undistributed capital gain credit				
E. Previous assessments	28,138.03		28,138.03	
F. Sum of amounts A through E	$ 193,533.33		193,533.33	
G. Deduct previous refunds and/or credits	—	193,533.33	—	193,533.33
14. Additional tax or (Net overassessment)		$ -0-		$ 182,032.14
15. Penalties or additions to the tax, if any				$ —

FORM 1909 (REV. 8-64)
Page 10

Harry & Marion Krant
AU:R: 30D

JA 264

AUG 2 8 1968

FORM 870 (REV. DEC. 1965)	U.S. TREASURY DEPARTMENT - INTERNAL REVENUE SERVICE **WAIVER OF RESTRICTIONS ON ASSESSMENT AND COLLECTION OF DEFICIENCY IN TAX AND ACCEPTANCE OF OVERASSESSMENT**	DATE RECEIVED BY INTERNAL REVENUE SERVICE

Pursuant to section 6213(d) of the Internal Revenue Code of 1954 or corresponding provisions of prior internal revenue laws, the restrictions provided in section 6213(a) or corresponding provisions of prior internal revenue laws are hereby waived and consent is given to the assessment and collection of the following deficiencies, together with interest on the tax as provided by law; and the following overassessments are accepted as correct:

DEFICIENCIES

TAXABLE YEAR	TYPE OF TAX	AMOUNT OF TAX	PENALTY	
Dec.31,1966	Income	$1,848.89		
Dec.31,1967	Income	182,032.14		

OVERASSESSMENTS

TAXABLE YEAR	TYPE OF TAX	AMOUNT OF TAX	PENALTY	

NAME AND ADDRESS OF TAXPAYER(S) *(Number, street, city or town, State, ZIP Code)*

SIGNATURE		DATE	Corporate Seal
SIGNATURE		DATE	
SIGNATURE	TITLE	DATE	

By

NOTE: The execution and filing of this waiver will expedite adjustment of the tax liability as indicated above. It is not, however, a final closing agreement under section 7121 of the Internal Revenue Code and does not preclude assertion of a further deficiency in the manner provided by law if it is later determined that additional tax is due; nor does it extend the statutory period of limitation for refund, assessment, or collection of the tax.

Furthermore, execution and filing of this waiver will not preclude the taxpayer's filing under section 6511 of the Code a timely claim for refund or credit, on which (if disallowed by the Service) suit may be brought in the appropriate District Court or the U. S. Court of Claims.

If the waiver is executed for a year for which a JOINT RETURN OF A HUSBAND AND WIFE was filed, it must be signed by both husband and wife unless one, acting under a power of attorney, signs as agent for the other.

If the taxpayer is a corporation, the waiver must be signed with the corporate name followed by the signature and title of the officer(s) duly authorized to sign. It is not necessary that the corporate seal be affixed. The space provided for the seal is for the convenience of corporations required by charter or by the laws of the jurisdiction in which they are incorporated to affix their corporate seals in the execution of instruments.

The waiver may be executed by the taxpayer's attorney or agent provided such action is specifically authorized by a power of attorney which, if not previously filed, must accompany the form.

If the waiver is executed by a person acting in a fiduciary capacity (such as executor, administrator, trustee, etc.), Form 56, "Notice of Fiduciary Relationship," should, unless previously filed, accompany this form.

Department of the Treasury
Internal Revenue Service Center

ANDOVER, MASS. 01812

22 MS2 1101

V 110108563 6612 670

HARRY & MARIAN KRAUT
56-07 FRESH MEADOW LANE
FLUSHING N Y 11365

Date	JAN. 31, 1969
Identifying Number	110-18-8563
Document Locator Number	11247-004-05104-9
Form Number	1040
Tax Period Ended	DEC. 31. 1966

If you inquire about your account, please refer to these numbers or attach this notice.

ACCOUNT ADJUSTMENT BILL FOR TAX DUE

BALANCE DUE ON ACCOUNT BEFORE ADJUSTMENT $.00

ADJUSTMENT COMPUTATION

TAX- INCREASE	1,848.89
INTEREST CHARGE ON THIS ADJUSTMENT	199.00
NET ADJUSTMENT CHARGE	2,047.89
BALANCE DUE	$2,047.89

Please
Ck #13-70
Feb 11 '69

K.M

The letter(s) in the box at the left identify the statement(s) on the back of this notice which provide further explanations and instructions.

Form 4188 (Rev.10-68)

Respondent's Exhibit G

U. S. TAX COURT
MARKED FOR IDENTIFICATION
ADMITTED IN EVIDENCE
NOV 12 1973
PETITIONER'S EXHIBIT
RESPONDENT'S EXHIBIT
DOCKET NO. 9662-70

Agreement made June 1, 1966, between TRIO WIRE & CABLE CORP., a New York Corporation, having its principal place of business at 208 Meserole Avenue, Brooklyn, New York, hereinafter called the Lessor, and NASSAU PLASTICS & WIRE CORP., a New York Corporation, having its principal place of business at 212 Meserole Avenue, Brooklyn, New York, hereinafter called the Lessee.

1. The Lessor hereby leases to the Lessee the machines of the Lessor designated as follows: one three and one quarter (3 1/4")inch Hartig Plastic Extruder 1964 To 1 ratio, one Herringbone Gear Box, one Crosshead with complete set of tools, one Heat Control Panel with 4 West Heat Controls wired into extruder barrel, one water trough, one capstan with controls and Reliance Variable speed unit, one Dancer wired to one Davis Electric dual takeup, entire complex wired to work in unison.

2. The machines shall at all times be the sole property of the Lessor, and the Lessee shall have no property therein, but only the right to use the machines upon the conditions herein contained.

3. The machines shall not be transferred, delivered, or sublet to any other person or corporation, and this agreement shall not be assigned by the Lessee.

4. The Lessor shall at all times have free access to the machines for the purpose of inspection or observation, or to make alterations, repairs, improvements, or additions, or to determine the nature or extent of use of the machines.

5. The Lessee, at its own expense, shall keep the machines in good and efficient working condition. If at any time, in the opinion of the Lessor, the machines are not in good and efficient working condition, the Lessor, without prejudice to any other of its rights or remedies, may give written notice to the Lessee to put such machinery in good and

efficient working condition, and to replace all broken or missing parts; and if the Lessee does not within fifteen (15) days from the date of receipt of such notice comply therewith, the Lessor may cause such machinery to be put in good and efficient working condition, and may supply such broken or missing parts, and the Lessee shall forthwith pay to the Lessor the expense of making such repairs and the cost of all parts so supplied, at the regular prices established by the Lessor therefor.

6. The Lessee shall obtain from the Lessor exclusively, and shall pay therefor at the regular prices from time to time established by the Lessor, all duplicate parts, extras, mechanisms, and devices of every kind used in operation or repairing the machines; and the Lessee shall not otherwise make any addition or alteration to, or subtraction from, the machines without the prior written consent of the Lessor.

7. The Lessee shall not permit anyone to injure, deface, or remove any plate, dates, numbers, or other inscriptions, now or hereafter impressed on or affixed to the machines by the Lessor.

8. The machines, until redelivered to the Lessor, shall be held at all times at the sole risk of the Lessee from injury, loss, or destruction; and in case the machines, or either thereof, shall be destroyed by fire or otherwise before such redelivery, the Lessee shall pay to the Lessor in respect to each machine so destroyed $35,000.00 as partial reimbursement to the Lessor for such destruction, and the Lessee shall return forthwith to the Lessor whatever remains of the machinery so destroyed.

9. Until redelivery of the machines to the Lessor, the Lessee shall pay all taxes and assessments which may be levied upon or in respect to the machines by virtue of any interest therein, upon whomsoever they may be levied.

10. The machines shall be used only by operators in the direct employ of the Lessee, and only in the factory now occupied by it at its principal place of business, and shall be used only for the purpose of insulating and spooling copper wire, made by or for the Lessee.

11. The Lessee shall pay to the Lessor for the use of the equipment the sum of $6,000.00 per annum in equal monthly installments at the end of each month in the sum of $500.00. The first monthly payment shall be due June 30, 1966, and monthly thereafter for the term of this lease.

12. This lease shall continue for five (5) years from the date hereof, unless sooner terminated by the Lessor because of the Lessee's breach, in five (5) days written notice to the Lessee. At the end of the present term, unless this lease is renewed, the machines shall continue to be held under the terms of this agreement for an indefinite term, provided that thereafter either party on sixty (60) days written notice to the other may terminate this agreement. This lease shall terminate automatically, unless the Lessor shall elect otherwise on written notice to the Lessee, in case the Lessee becomes bankrupt or insolvent, or makes or executes any bill of sale, deed of trust, or assignment for the benefit of creditors, or attempts to sell, mortgage, lease, or remove the machines or either of them, or in case a receiver is appointed for the Lessee, or any distress, execution, or attachment is levied on the machines.

13. Upon the termination in any manner whatever of this agreement, the Lessee shall forthwith deliver the machines to the Lessor, complete and in good condition, reasonable wear excepted; and the Lessor is hereby authorized to enter upon any premises where the machines or either of them may be found, and take possession of and remove such machines.

IN WITNESS WHEREOF, the parties have executed this agreement

in duplicate.

Corporate Seal

Attest:

_____
Secretary

TRIO WIRE & CABLE CORP.

BY _____
PRESIDENT

Corporate Seal

Attest:

_____
Secretary

NASSAU PLASTICS & WIRE CORP.

BY Marian Kraut (Copy)
PRESIDENT

Respondent's Exhibit H JA 270

BY ENDORSEMENT THIS CHECK WHEN PAID IS ACCEPTED IN FULL PAYMENT OF THE FOLLOWING ACCOUNT

TOTAL OF INVOICES		
LESS ___ % DISCOUNT		
LESS		
TOTAL DEDUCTIONS		
AMOUNT OF CHECK		

NASSAU PLASTICS & WIRE CO.
212 MESEROLE AVENUE
BROOKLYN, NEW YORK 11222

10071
~~11223~~

Oct 17 1966 1-103/210

PAY TO THE ORDER OF Cathedral of Tomorrow, Inc $25000 00/100

THE SUM 25000 DOLS 00 CTS DOLLARS

BANKERS TRUST COMPANY
550 SEVENTH AVENUE
NEW YORK, N. Y. 23

NASSAU PLASTICS & WIRE CO.

AUTH. SIG.

⑆0210⑆0103⑆23⑆4166963⑈

DELUXE CHECK PRINTERS - NY

BY ENDORSEMENT THIS CHECK WHEN PAID IS ACCEPTED IN FULL PAYMENT OF THE FOLLOWING ACCOUNT

TOTAL OF INVOICES		
LESS ___ % DISCOUNT		
LESS		
TOTAL DEDUCTIONS		
AMOUNT OF CHECK		

NASSAU PLASTICS & WIRE CO.
212 MESEROLE AVENUE
BROOKLYN, NEW YORK 11222

10072
~~11249~~

Oct 17 1966 1-103/210

PAY TO THE ORDER OF Cathedral of Tomorrow, Inc $25000 00/100

THE SUM 25000 DOLS 00 CTS DOLLARS

BANKERS TRUST COMPANY
550 SEVENTH AVENUE
NEW YORK, N. Y. 23

NASSAU PLASTICS & WIRE CO.

AUTH. SIG.

⑆0210⑆0103⑆23⑆4166963⑈

DELUXE CHECK PRINTERS - NY

U. S. TAX COURT
MARKED FOR IDENTIFICATION 14
ADMITTED IN EVIDENCE 14
NOV 12 1973
PETITIONER'S EXHIBIT
RESPONDENT'S EXHIBIT #
DOCKET NO. 7663-70

ETC.

Pay to the order of
~~Henry Kraut~~
MARIAN KRAUT

CATHEDRAL OF TOMORROW, INC.
REX E. HUMBARD, PRESIDENT

MAUDE AIMEE HUMBARD, SEC.

Pay to the order of
~~Donna~~ ~~Kraut~~
IRIS KRAUT

CATHEDRAL OF TOMORROW, INC
REX E. HUMBARD, PRESIDENT

MAUDE AIMEE HUMBARD, SEC.

JA 271

Respondent's Exhibit I JA 272

MANAGEMENT METHODS, INC.

41 EAST 42nd STREET, NEW YORK, N.Y. 10017 · MURRAY HILL 2-1066
CONSULTANTS IN ACQUISITIONS · MERGERS · FINANCING

Personal and
Confidential

October 13, 1966

U. S. TAX COURT
MARKED FOR IDENTIFICATION
ADMITTED IN EVIDENCE
NOV 12 1973
PETITIONER'S EXHIBIT I
RESPONDENT'S EXHIBIT
DOCKET NO. 7663-70, etc.

Rev. Rex E. Humbard
Cathedral of Tomorrow, Inc.
Box 3500
Akron, Ohio 44310

Re: Nassau Plastics & Wire Co.

Dear Reverend:

I have the very pleasant duty of advising you that we have today made a deposit to the order of Cathedral of Tomorrow, Inc., Special Account No. 3, and within fifteen days or so you should receive a disbursement of $15,400. I have also been advised that approximately some time in January or February 1967 (if present business continues as it is expected) you should receive a check in excess of $50,000.

I am enclosing two checks for $25,000 each, which constitute the $50,000. down-payment which was to have been made to the sellers on August 1, 1966. I am not certain that I advised you that the cash flow at that time was insufficient. Therefore, will you please endorse the checks on the reverse side as follows:

"Cathedral of Tomorrow, Inc.

By Rev. Rex E. Humbard, President

Maude Aimee Humbard, Secretary"

and return the two checks to me as expeditiously as possible in the enclosed envelope.

Please advise Mr. Iden that all of the documents are now in proper form and that I will very shortly forward them to him for his files.

My warmest personal regards,

Eugene O. Cobert

EOC:sbr
Encs.

Eugene O. Cobert
For Management Methods, Inc.

ENR		
DKT-1		ENR
CLK		
DKT-2		
CAL		
SERV	✓	✓
STAT		
APPL		
JUDGE		
COMR		
FILES	✓	

Opinion of Arnold Raum, J.

62 T. C. No. 48

UNITED STATES TAX COURT

AARON KRAUT AND IRIS KRAUT, Petitioners v. COMMISSIONER OF INTERNAL REVENUE, Respondent

HARRY KRAUT AND MARIAN KRAUT, Petitioners v. COMMISSIONER OF INTERNAL REVENUE, Respondent

Docket Nos. 7663-70, 7664-70. Filed June 27, 1974.

In 1965 petitioners organized and became the sole stockholders of Nassau Plastic & Wire Corp. ("Nassau") to manufacture wire to be used in Christmas decorations. Less than one year later, petitioners entered into an agreement to sell their Nassau stock to Cathedral of Tomorrow, a Federally tax-exempt religious organization, which simultaneously agreed to liquidate Nassau. Nassau's assets consisted almost entirely of a second hand automobile, $50,000 of receivables, and a five-year lease of its single piece of machinery -- all subject to liabilities in excess of $36,000. The stated sales price was a flexible amount ranging from a minimum of $500,000 to a maximum of $3,500,000, and was payable primarily out of 75 percent of the business' net income for the ensuing ten years. As employees, petitioners remained in control of the operation of the business. In the event of default, petitioners' sole recourse was the enforcement of a lien upon the business' assets. The lease agreement for the machine entitled the lessor, a corporation wholly-owned by petitioners, to terminate the lease unilaterally after the expiration of its initial term. Held, this transaction amounted merely to the payment of a fee to Cathedral in return for lending its tax exemption to Nassau's earnings rather than the actual transfer of the business to Cathedral, and it therefore did not constitute a bona fide sale of a capital asset within the meaning of section 1222(3).

Sidney N. Solomon, Fredric Scheinfeld, and O. John Rogge, for the petitioners.

Stanley J. Goldberg and Walter C. Welsh, for the respondent.

SERVED JUN 27 1974

The Commissioner determined deficiencies in petitioners' 1967 income tax as follows:

Docket No.	Petitioners	Amount
7663-70	Aaron and Iris Kraut	$254,437.12
7664-70	Harry and Marian Kraut	258,544.82

The cases were consolidated for trial. At issue is whether an agreement by which two of petitioners purported to transfer the stock of their wholly-owned corporation to a tax-exempt charitable organization in exchange primarily for a portion of the business' profits for a period of ten years constituted a bona fide sale within the meaning of section 1222(3), I.R.C. 1954, thereby entitling petitioners to capital gains treatment in respect of the proceeds. In the event such a sale did occur, there is the further question whether those proceeds in excess of approximately $168,000 were capital gains.

FINDINGS OF FACT

The parties have filed a stipulation of facts which, together with its accompanying exhibits, is incorporated herein by this reference.

Petitioners Iris Kraut and her husband Aaron Kraut resided in Oceanside, New York, at the time they filed their petition herein; petitioners Marian Kraut and her husband Harry Kraut resided in Flushing, New York, at the time they filed their petition herein. Both pairs of petitioners timely filed joint

Federal income tax returns for the year 1967 with the district director of internal revenue at Brooklyn, New York.

Aaron Kraut and his brother Harry together were in the business of developing and manufacturing electric wire of various types. For at least 20 years they had owned and acted as president and vice president, respectively, of Trio Wire & Cable Corporation ("Trio"), which was primarily concerned with the production of assorted types of wires and cables encased in plastic insulation. In addition to and as an offshoot of that business the Kraut brothers in or around 1960 formed a separate corporation, Christmas Wire Manufacturing Corporation ("Christmas Wire"), through which they hoped to penetrate the more specialized and very competitive market for wiring used in the manufacture of Christmas decorations. Although Trio itself did not produce such wire, it owned the necessary machine, an extruder, which Christmas Wire made use of. The extruder was housed in a leased building, one of three separate but interconnected buildings on Meserole Avenue in Brooklyn in which Trio carried on its business. That machine appears to have been the only item of equipment used in the production of the Christmas wire, and the record fails to show that any appreciable number of employees was engaged in its operation.

The heart of the manufacturing process for Christmas wire consisted of extruding a coat of plastic insulation around light gage wire. The Christmas decoration manufacturers who purchased the wire then attached light bulb sockets to it by means of small brass spurs on the sockets which punctured the plastic jacket and made contact with the electric wire inside. A major problem for manufacturers of such wire was the normally tough consistency of the plastic used which created difficulty in attaching the sockets and thus led to a high "rejection rate" in the decoration assembly process. As a result of various problems, primarily the rejection rate, the Kraut brothers brought production under Christmas Wire's name to an end sometime in the spring of 1965. Although the Krauts "sold" the Christmas Wire corporation at that time at a price not satisfactorily shown in the record, the purchaser never conducted operations at the Meserole Avenue location. The Krauts retained the use of Christmas Wire's premises as well as Trio's extruder which remained there. Within a very short time thereafter, possibly as little as several weeks and certainly no more than a few months, Harry and Aaron Kraut formed another corporation, Nassau Plastic & Wire Corporation ("Nassau"), which they intended would operate as an adjunct to Trio similar in fashion to Christmas Wire. As a matter of convenience,

Nassau issued all of its stock, 200 shares, in equal amounts to Iris and Marian Kraut in return for their contributions to its capital of $100 apiece. Although neither Aaron nor Harry contributed to Nassau's capital, they nonetheless were the dominant figures in its activities, while their wives provided no services at all to it. Nassau occupied the same premises which Christmas Wire had previously used, and its only equipment was the extruder belonging to Trio which Trio had in the past supplied to Christmas Wire. Nassau required the extruder to manufacture Christmas wire with a new insulating material which, due to its easily penetrable consistency, promised to minimize the rejection problem associated with conventional plastic insulation. This new material was, however, "an unknown quantity", and its resistance to wear and decay over a period of several years was as yet unproven. Despite the new material's alleged superiority to the insulating material commonly in use at the time, the Krauts did not obtain, nor apparently did they apply for, a patent on it.

On its Federal income tax return for the fiscal year ended June 30, 1966, Nassau reported gross income of $26,189.84, which represented the difference between its sales of $492,305.16 and its cost of goods sold, $466,115.32. The cost of goods sold consisted entirely of merchandise bought for manufacture or sale;

Nassau reported no expense for salaries and wages other than $2,600 paid to the Krauts, no expense for use of the extruder, nor any expense for the building in which it was kept. As of June 30, 1966, Nassau maintained no inventory whatsoever. After deducting the Krauts' salaries, taxes, depreciation on a car, and $5,913.40 of operating expenses, Nassau reported a taxable income of $15,831.56 and a resultant tax liability of $3,482.94.

At some time in the early part of 1966, Management Methods, an investment counseling and legal firm located in New York City, brought to Reverend Rex T. Humbard, its client, a proposal for the purchase of Nassau. Reverend Humbard was the pastor of the Cathedral of Tomorrow ("Cathedral"), a Federally tax-exempt religious organization in Akron, Ohio. Its activities included conducting Sunday services, a Sunday school, and youth groups as well as sponsoring the worldwide telecast of its church services and supporting an extensive missionary program. Among its assets, Cathedral owned two businesses, at least one of which it had acquired in an entirely debt-financed transaction. After expressing his preliminary interest in the proposal concerning Nassau, Reverend Humbard with his associates undertook to examine Nassau's business more closely.

Before the parties had entered a binding agreement, however, Iris and Marian Kraut executed an agreement with a party identified only as Wilson Mold & Die Corporation ("Wilson") on May 31, 1966, purporting to sell to it their entire interest in Nassau, payments to commence on September 1, 1966. Beyond its participation in this contract, the record contains no evidence as to any and all particulars in respect of Wilson and its principals.

On the following day, June 1, 1966, Trio and Nassau executed an agreement whereby Trio leased to Nassau the extruder which Nassau had theretofore been using along with its accompanying apparatus. The lease was to run for a term of five years, to continue indefinitely thereafter but subject to termination by either party upon 60 days' written notice. Nassau agreed to pay Trio $500 per month. The lease further provided that:

> The Lessor [Trio] shall at all times have free access to the machines for the purpose of inspection or observation, or to make alterations, repairs, improvements, or additions, or to determine the nature or extent of use of the machines.

Furthermore:

> The machines shall be used only by operators in the direct employ of the Lessee [Nassau], and only in the factory now occupied by it at its principal place of business, and shall be used only for the purpose of insulating and spooling copper wire, made by or for the Lessee.

Iris and Marian Kraut signed on behalf of Nassau.

Shortly thereafter, before the time of its performance had arrived, Nassau and Wilson abandoned their purported contract of sale. In a separate three-cornered agreement dated June 15, 1966, only 15 days after the initial contract, Wilson assigned all of its rights and delegated all of its duties arising under the May 31, 1966, agreement to Cathedral; Iris and Marian Kraut agreed to release Wilson from the prior contract; and Cathedral covenanted to purchase Nassau's stock according to the following terms:

The Buyer [Cathedral] shall take all such action as may be required so that on or as of June 25, 1966 Nassau Plastic shall be liquidated and all of its assets distributed to the Buyer. Simultaneously with the execution of this Agreement, the Buyer, with the consent of the stockholders and directors of the Sellers [Iris and Marian Kraut], shall take steps forthwith to accomplish the following:

(a) Create a separate operating-manufacturing unit, owned by the Buyer, to be denominated and known as Nassau Plastic (hereinafter sometimes interchangeably referred to as "Nassau Plastic & Wire Co." * * *); the Buyer to file such documents with the proper governmental authorities as may be necessary to effectuate the same.

(b) The name of Nassau Plastic & Wire Corp. shall be changed forthwith, to such name as the Buyer may designate.

* * * * * * *

The purchase price for all of the stock sold under this Agreement shall be not less than $500,000 (hereinafter called the "Minimum Price") nor more than $3 1/2 million (hereinafter called the "Maximum Price"). The purchase price shall be paid by the Purchaser to the Sellers at the following time in the following manner and to the extent set forth below:

(a) For the period from June 25, 1966 to July 1, 1966, 100% of the net income of the Corporation shall belong to the Sellers; the Purchasers shall receive credit for said amount toward the purchase price.

(b) $50,000 on or before August 1, 1966.

(c) For the balance of the year 1966 and in each of the years 1967 through 1976 terminating however on June 30, 1976 inclusive, unless the Maximum Price be paid in full prior thereto; commencing with the 15th day of October 1966 and on the 15th day of each January, April, July and October thereafter in respect to each preceding quarterly period from July 1, 1966 through June 30, 1976, an amount equal to 75% of the Corporations [sic] net income before Federal income taxes for each of such next preceding fiscal periods. In the event a loss occurs in any quarterly period, said loss shall be utilized as an offset in each of the succeeding quarterly periods (until said loss has been recouped) before payments to the Sellers are resumed.

(d) In any event and notwithstanding any provision in this Agreement with respect to the contingent deferral of installment payments of the Purchase Price, the full Minimum Price referred to above and any portion of the Maximum Price referred to above which Sellers may become entitled to receive shall be paid in full on or before July 15, 1976.

(e) The Purchaser may prepay at any time all or any part of the unpaid amount of the Maximum Price.

The terms of payment agreed to by Cathedral largely reflected the substance of Wilson's antecedent commitment, the one notable difference being that Wilson had agreed to pay 75 percent of its pre-tax earnings only through June 30, 1971, thereafter applying the same percentage to its after-tax income for the duration of the ten-year period.

The ultimate transaction did not contemplate any cash outlay by Cathedral, either at the outset or in the event of default. Although the terms of the contract provided for an initial $50,000 payment on August 1 irrespective of Nassau's profits,

Nassau's assets at the time of the purported sale included $50,089.75 of notes and accounts receivable plus $2,323.36 in cash. In point of fact, petitioners permitted Cathedral to postpone that payment until mid-October, 1966, by which time Nassau had generated sufficient cash flow from which Cathedral could pay petitioners. Even though Iris and Marian Kraut retained a security interest in all of the assets, business, and good will of Nassau, their interest was subject not only to prior liens, but to "the rights of present and future general creditors for obligations arising in the regular course of business, and liens, collateral or security for the loan or loans advanced or to be advanced by any bank." Moreover, it was stipulated that, in the event of Cathedral's default in payments or otherwise, enforcement of the security agreement would constitute the seller's exclusive remedy "and in no event shall the Sellers seek any deficiency judgment or other judgment for damages against the Buyer." In addition thereto, Cathedral agreed to employ both Harry and Aaron Kraut as its chief executive officers, Aaron in the capacity of production manager and internal office manager and Harry as sales manager. As such, Cathedral granted them full authority and responsibility to direct the business of Nassau in every respect. For such services, Cathedral agreed to pay them each $5,200 yearly, their employment to terminate on the day following the date of Cathedral's final payment to Iris and Marian.

At the time of this agreement, Nassau owned neither the building in which it operated nor the single piece of machinery with which it produced wire. Its interest in the machine consisted of the five year lease from Trio described above. On its tax returns for the year ending June 30, 1966, it listed total assets in the amount of $53,867.56, of which notes and accounts receivable amounted to $50,089.75; the remaining assets consisted of cash and an automobile. In the same return, it reported $36,575.99 in accounts payable while its capital account showed $200 in respect of its common stock.

Following the disposition of the stock, Nassau's operations continued at the same location with the same personnel using the same equipment, and apparently under the same or a very similar name. Harry and Aaron Kraut, as "Cathedral's employees", still managed the business. Under this arrangement the business met with early and quite remarkable success. Although on August 1 the business' cash flow apparently had been insufficient to provide Cathedral with the funds necessary to make the down payment then due, on October 12 Harry Kraut drew two checks of $25,000 each on Nassau's account in favor of Cathedral which Reverend Humbard then endorsed as payable to Iris and Marian Kraut individually. During the remainder of 1966 Cathedral paid Iris and Marian an additional $97,500; in 1967 Cathedral paid them a total of $1,332,500,[1] which raised the

---

1. This is a gross amount against which there should be charged $64,225, the related expenses of collection, leaving a net amount of $1,268,275.

overall level of payments to $1,480,000. After 1967, though, the business rapidly became unprofitable, and in 1969 it ceased operating altogether. The sudden turnabout in the business' fortunes was attributable, at least in part, to its competitors' ability to reduce the rejection rate of their Christmas wire through improved techniques and production quality. Ownership of Nassau's then remaining assets, which were of negligible value, reverted to the original owners.

In each of their respective joint income tax returns for 1967, petitioners reported the receipt of $666,250 from Cathedral, of which they treated $27,720.83 as interest and from which they deducted collection expenses of $32,112.50, primarily brokers' commissions. They then listed the net amount of $606,416.67 in each return as long-term capital gains and computed their tax liability according to the alternative tax provided in section 1201(b). In each of his deficiency notices, the Commissioner determined

> that $595,776.09 of the amount collected in 1967 pursuant to the sale of your shares of stock in Nassau Plastics & Wire Corp. to the Cathedral of Tomorrow, Inc. in 1966, payments to be made out of the profits of the company sold, constitutes ordinary income to you in 1967. * * *

In arriving at this amount, the Commissioner assigned to the stock of Nassau a selling price of $168,445.60, a value equal to ten times the taxable income of Nassau for the taxable year ended June 30, 1966.[2] He then made the following computation:

Amount received in 1966 and 1967	$1,480,000.00
Less interest as reported	56,904.16
	$1,423,095.84
Amount deemed applicable to selling price of shares	168,445.60
Balance	$1,254,650.24
Less expenses incurred in 1967	63,098.07
Increase in ordinary income for 1967	$1,191,552.17
50% applicable to each shareholder	$ 595,776.09

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2. Nassau's Federal income tax return for the year ended June 30, 1966, indicated taxable income of $15,831.56, which, multiplied by 10, equals only $158,315.60. The Commissioner, on brief, noted the discrepancy between this amount and the figure used in computing the deficiencies, but he does not now contend that the value of Nassau's stock should be limited to the lower figure.

OPINION

RAUM, Judge: This case presents a factual variation of a common transaction, the heart of which is the debt-financed acquisition of a going business by a tax-exempt organization. Prior to the Tax Reform Act of 1969, churches described in section 501(c)(3), I.R.C. 1954, which were exempt from ordinary taxation were also singled out in section 511(a)(2)(A) for relief from taxation on so-called unrelated business taxable income.[3]

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3. Part III of Subchapter F of Chapter 1 of the Income Tax Subtitle of the Internal Revenue Code, consisting of sections 511 through 515, extends taxation to the business income of certain exempt organizations. The critical language therein is "unrelated business taxable income", a defined term denoting income from a trade or business carried on by the exempt organization but which trade or businessis not substantially related to the organization's exempt purpose. Section 511(a)(1) contains the operative language of Part III, imposing a tax on the unrelated business taxable income "of every organization described in paragraph (2)". Section 511(a)(2), as effective in 1967, provided in relevant part:

> (2) Organizations subject to tax.--
>
> "(A) Organizations described in section 501(c)(2), (3), (5), (6), (14)(B) or (C), and (17), and section 401(a).--The taxes imposed by paragraph (1) shall apply in the case of any organization (other than a church, a convention or association of churches, or a trust described in subsection (b)) which is exempt, except as provided in this part, from taxation under this subtitle by reason of section 401(a) or of paragraph (3), (5), (6), (14)(B) or (C), or (17) of section 501(c). Such taxes shall also apply in the case of a corporation described in section 501(c)(2) if the income is payable to an organization which, itself is subject to the taxes imposed by paragraph (1) or to a church or to a convention or association of churches." [Emphasis supplied.]

(Footnote continued on next page.)

This provision enabled a qualified church to receive the income from the operation of a trade or business, itself unrelated to the church's exempt purpose, without incurring tax liability on the proceeds, provided the business was not conducted as a separate corporate entity.[4] Arrangements of this type held out to businessmen the prospect of relieving the tax burden on otherwise taxable business profits by "selling" the business to a church, which could then pass on a substantial portion of those untaxed profits to the seller as deferred payment of the purchase price, ultimately resulting in tax liability of the seller only for long-term capital gains.

In the case before us, the events of which transpired prior in time to the amendment of section 511(a)(2)(A), the Commissioner has challenged petitioners' decision to treat the

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3. (Continued.)

The Tax Reform Act of 1969, section 121(a)(1), repealed the preferred status of churches in respect of unrelated business income by deleting the parenthetical exception in section 511(a)(2)(A).

4. Treas. Regs. section 1.511-2(a)(3)(ii).

payments received from Cathedral as long-term capital gains. He proposes two bases for this conclusion: first, that the totality of the dealings between the parties did not amount to a bona fide sale, without which long-term capital gain does not arise;[5] second, that in the event we find this transaction to exhibit the substance of a sale, the value of Nassau's stock was nevertheless limited to $168,445.60, and the payments which petitioners received in excess thereof were thus not "from the sale or exchange of a capital asset". To these contentions petitioners respond simply that there was a bona fide common law sale, that the agreed-upon price for Nassau's stock resulted from arm's-length negotiations between the parties and fell well within a reasonable range of values in light of Nassau's alleged potential sales volume. We, however, are not persuaded by the evidence before us that the Commissioner has erred.

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5. SEC. 1222. OTHER TERMS RELATING TO CAPITAL GAINS AND LOSSES.

For purposes of this subtitle--

* * * * * * *

(3) Long-term capital gain.--The term "long-term capital gain" means gain from the sale or exchange of a capital asset held for more than 6 months, if and to the extent such gain is taken into account in computing gross income.

* * * * * * *

It is a cardinal rule that, in characterizing a transaction for purposes of taxation, we are obliged to look beyond the form in which the parties have chosen to cast it and to draw our conclusions from that which we perceive to be the substance of the matter. Griffiths v. Commissioner, 308 U.S. 355, 357-358; Higgins v. Smith, 308 U.S. 473, 476; Jack E. Golsen, 54 T.C. 742, 754, affirmed 445 F. 2d 985 (C.A. 10). In particular here we must determine whether the parties effected a true sale of Nassau's stock. In its benchmark decision in this area, Commissioner v. Brown, 380 U.S. 563, the Supreme Court addressed itself to the relevant characteristics of a sale, stating (380 U.S. at 571):

> "A sale, in the ordinary sense of the word, is a transfer of property for a fixed price in money or its equivalent," Iowa v. McFarland, 110 U.S. 471, 478; it is a contract "to pass rights of property for money, -- which the buyer pays or promises to pay to the seller * * *," Williamson v. Berry, 8 How. 495, 544.

Inherent in the Court's understanding of a sale is the notion of movement through exchange, the idea that, at the conclusion of the sale, the buyer possess that which was the object of the sale. And, indeed, this comports well with the "common and ordinary meaning" of a sale. Commissioner v. Brown, supra, at 571. On the strength of this definition, the Supreme Court characterized the transaction before it as a sale, and in so doing it underscored a variety of detail which impresses us as highly significant in analyzing the facts before us.

At the outset, the Court recognized the necessity of construing the term "sale" in a manner consistent with the purpose of the capital gains provisions of the Code. That purpose is (380 U.S. at 572) --

> to afford capital gains treatment only in situaions "typically involving the realization of appreciation in value accrued over a substantial period of time, and thus to ameliorate the hardship of taxation of the entire gain in one year." Commissioner v. Gillette Motor Co., 364 U.S. 130, 134.

Unlike the facts in Brown, in which the transferred business had an adjusted net worth of $619,457.63 which included $448,471.63 of accumulated earnings, at the time of the present transaction Nassau's balance sheet showed total assets of $53,867.56, accumulated earnings of $12,348.62, and a net worth of only $12,548.62. Yet the purported sales price was a flexible figure between $500,000 and $3,500,000 as opposed to the correspondingly more realistic price of $1,300,000 in Brown. While the absence of accrued value is not conclusive with regard to the existence of a sale, it quite clearly demonstrates that the consideration here reflected whatever future income Nassau might produce rather than the typical capital gains situation "involving the realization of appreciation in value accrued over a substantial period of time" as was

the case in Brown.[6] We think that such a transaction may most accurately be described as a retained proprietary interest by the shareholders in the business' future earnings rather than the creation of a creditor's interest in future earnings born of past accrued value of a capital asset. To treat such as a sale is at odds with the very purposes of the Code in allowing capital gains treatment for realization of the enhanced value of a capital asset.

The Court in Brown further stressed the express finding of the Tax Court that the price paid was within reasonable limits based on the earnings and net worth of the company. 380 U.S. at 572-574. In the context of a purchase to be financed entirely and exclusively from the earnings of the business acquired, this factor properly focuses attention upon what Justice Harlan referred to as the purchaser's "residual interest". Commissioner v. Brown, supra, at 581 (concurring opinion). While Justice Harlan agreed with the majority's conclusion that a sale had occurred, he offered the following analysis which we deem to be especially helpful in the case before us:

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6. In this respect, we regard the $3,000,000 range within which the purchase price was allowed to vary as incompatible with a sale of Nassau's past accrued value and goodwill. Rather, it is highly suggestive of an arrangement by which the Krauts retained a most substantial interest in Nassau's future profits.

> [T]he Government might more profitably have broken the transaction into components and attempted to distinguish between the interest which [the taxpayers] retained and the interest which they exchanged. The worth of a business depends upon its ability to produce income over time. What [the taxpayers] gave up was not the entire business, but only their interest in the business' ability to produce income in excess of that which was necessary to pay them off under the terms of the transaction. The value of such a residual interest is a function of the risk element of the business and the amount of income it is capable of producing per year, and will necessarily be substantially less than the value of the total business. Had the Government argued that it was that interest which [the taxpayers] exchanged, and only to that extent should they have received capital gains treatment, we would perhaps have had a different case.

It follows therefrom that to the extent the so-called sales price is excessive, albeit agreed upon, the purchaser's residual interest is correspondingly diminished. Despite inadequacies in the record before us, there is sufficient evidence to create serious doubt in our minds that Nassau's expected earnings even approximated, no less exceeded, the level necessary to render payments to the Krauts of $3,500,000. And to the extent the clouded record precludes us from making any specific finding with reasonable confidence in this respect, we find that petitioners have failed to sustain their burden of proving that the facts were otherwise.

In urging upon us the reasonableness of the contract price, petitioners have relied heavily upon Aaron Kraut's projection of Nassau's earnings from its new Christmas wire, which valuation is supported, they argue, by the fact that Wilson Mold & Die Corporation, an allegedly non-exempt corporation subject to the constraints of taxation, agreed to substantially the same terms as did Cathedral in a contract to purchase Nassau. At trial, Aaron Kraut testified that, based upon the customer acceptance of Nassau's new wire and the growing backlog of unfilled orders in the first half of 1966, he expected Nassau to yield gross profits of $10,000,000 during the ensuing ten years. We, however, simply do not believe this evidence. Petitioners introduced neither documentary nor other specific evidence of Nassau's allegedly skyrocketing business of early 1966. And Aaron Kraut's narrowly selective and seemingly self-serving memory rendered his testimony wholly unsatisfactory. On the one hand, he repeatedly professed his complete ignorance even of Trio's and Nassau's most general financial concerns, such as the information in tax returns which he himself had signed, explaining that his brother Harry handled all financial matters while he was engaged exclusively in the production end of the

business.[7] Yet, with respect to the central question of the case, Nassau's earning capacity over a period of ten years, he presumed to ask the Court to rest content entirely on the strength of his knowledge of that matter. The valuation of a business is a delicate and sophisticated calculation, the more so with only one year's operation from which to extrapolate, and we are hardly inclined to credit Aaron Kraut with the necessary knowledge or ability to lend the slightest probative value to his testimony.

7.

Another instance of Aaron Kraut's remarkably inconsistent memory arose in respect of the sale of Christmas Wire, an event no more than eight years past at the time of trial. He at first professed to have no recollection whatever of the purchase price, but after persistent questioning by the Court, prompted by the witness' startling total lapse of recall, he finally testified that the price was somewhere between $100,000 and $1,000,000. We did not find him a credible witness and are unwilling to ground our findings on what is so obviously contrived testimony.

We also mention that, although the Government had subpoenaed Harry Kraut to appear at trial, the Government's attorney explained that he had not sought to enforce the subpoena. Inasmuch as it was represented that Harry was scheduled to appear at a trial elsewhere at the same time, the Government attorney relied upon petitioners' counsel's assurance that Aaron was every bit as knowledgeable as Harry with respect to the details of Nassau's business. At trial, petitioners' counsel did not contest the accuracy of such representation, and we simply note that petitioners must bear the consequences of their failure to adduce credible evidence of Nassau's value.

Insofar as Wilson is concerned, we are faced with unexplained silence. The record is barren of evidence with respect to Wilson. We do not know what business, if any, it conducted, who its principals were and what relationship, if any, existed between them and Cathedral or other persons involved in these transactions, and what negotiations, if any, preceded the signing of the contract. All we do know is that a party referred to as Wilson Mold & Die Corporation signed a contract to purchase Nassau's stock and 15 days later assigned the entirety of its interest in the contract to Cathedral. In the absence of any explanatory evidence (which was peculiarly within the control of petitioners) and in view of the two contracts' all too convenient timing, it is strongly suggestive the initial Wilson contract was merely a bootstrap effort to bolster petitioners' contention as to Nassau's fair market value, and we consequently must discount its evidentiary value.

In addition to petitioners' failure to produce credible evidence supporting the value they have tried to attach to Nassau, what evidence the record does provide in respect of this issue compels us to conclude that petitioners have failed to show that the contract price of as much as $3,500,000 was not grossly excessive. Nassau was a company which, in its one year of existence, had managed to generate profits of less than $16,000 before taxes, with total assets amounting to

slightly more than $50,000 and a net worth of $12,548.62. Its only fixed asset was an automobile. Its sole product was still experimental in June of 1966, untested in actual use over a period of time. Most significantly, though, was the fact that the Krauts neither obtained, nor apparently did they apply for, a patent on the new wire of such allegedly explosive sales potential, nor was it shown that production depended on a trade secret. Petitioners offered no explanation for such omission. Even assuming, arguendo, that this wire possessed the marketing potential urged by petitioners, without the protection afforded by a patent (and without any convincing evidence showing that production of the wire was based on a secret process) Nassau's competitors could have appropriated such a valuable process and a corresponding share of the market for such wire.

The decision in Brown rested as well upon a finding that the transaction had effected a real change of economic benefit, that the tax-exempt organization involved there was motivated by the genuine prospect of owning outright the substantial assets of a business after paying the purchase price in full. The record does not support a similar conclusion in the instant case.

Cathedral had no prospect of ending up with the substantial assets of an active business simply because Nassau owned no manufacturing assets at the time of the purported sale. Nassau's only fixed asset was an automobile; it owned no manufacturing equipment, no building, no inventory. The single piece of machinery employed in production was the extruder which it leased from Trio. By the terms of that lease, Trio had the right to determine the nature or extent of use of the machine and Nassau could make no additions or alterations to the extruder without the permission of Trio. After the initial five year period ending on May 31, 1971, either party could unilaterally cancel the lease. In effect, the Kraut brothers, through their wholly-owned corporation, Trio, had reserved the power to terminate the lease and to repossess Nassau's sole source of income at any time after May 31, 1971. In that event, there would have been small likelihood that Nassau's two key employees, Aaron and Harry Kraut, would have remained with Nassau and applied their skills to rebuilding the business around a new extruder, even if one were available.[8] Reduced to its essentials, this arrangement in substance would have permitted petitioners, after five years, to deprive Cathedral

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8. The extruder here under discussion had been specially tooled for the production of this wire, and the record leaves in doubt whether an extruder adapted as such might be readily available for purchase or rental.

of its newly acquired business, the value of which would have been obvious had the enterprise been sufficiently profitable to permit Cathedral to pay the Krauts in full.

On the other hand, although in Brown the Supreme Court rejected the argument that risk-shifting was an essential element of a bona fide sale, the transaction there nevertheless contemplated the payment by the exempt organization of a fixed price that was deemed to have a reasonable relationship to the subject matter of the sale. In the present case, however, the wholly unrealistic sales price coupled with the so-called sellers' remedy in the event of Cathedral's default makes it obvious that what we have here is a transaction designed, on the one hand, to insure Cathedral against any expense in the event Nassau failed to generate sufficient sales and, on the other hand, to provide the Krauts with the practical opportunity of recapturing the substance of Nassau's business in the event it proved profitable beyond the unrealistic level fixed in the contract. Our difficulty in discerning a sale in this arrangement is not that risk-shifting is absent; it is that nothing of substance has shifted other than a portion of the business' profits to Cathedral for a limited period of time. And the latter was merely the price that the Krauts paid for the opportunity of claiming capital gains treatment in respect of future speculative profits that might be realized by the enterprise. Petitioners have thus failed

entirely to demonstrate that their arrangement with Cathedral contemplated the prospect of Cathedral retaining any residual interest in Nassau. It follows therefrom that the transaction lacked the essentials of an exchange upon the basis of which a sale might be founded.

In a recent decision of this Court, Louis Berenson, 59 T.C. 412, appeal pending (C.A. 2), the majority refused to recognize the bona fides of a purported sale of a business to a tax-exempt organization. In distinguishing the holding in Brown, the Court found that the agreed upon price was "grossly excessive", bearing no relationship to the value of the assets sold or to the earnings history of the business. The Court concluded therefrom that the sale was merely a sham. In the present case the facts are even stronger than those relied upon in Berenson. Not only have petitioners here failed to demonstrate that the agreed upon price was not grossly excessive, but moreover they have not shown by satisfying evidence that Cathedral entertained even a remote prospect of actually acquiring anything of value. Cathedral's residual interest in Nassau was purely nominal, and we think the facts therefore fall within the rule of Kolkey v. Commissioner, 254 F. 2d 51 (C.A. 7), affirming 27 T.C. 37. The Seventh Circuit there decided that when, in a debt-financed acquisition by an exempt organization, the sales price is so grossly inflated that the

purchaser's prospect of finally owning the business outright is at best remote, the transaction does not amount to a sale. Likewise in the instant case, we are not persuaded that petitioners formulated the terms of payment for any purpose other than to secure this right to receive 75 percent of Nassau's profits throughout the specified period. It is our opinion that the transaction never contemplated the actual transfer to Cathedral of a going business in fact. Far from comprising a sale, this was quite plainly an agreement to pay Cathedral a fee in return for lending its exemption to Nassau's earnings. This is not to say that every debt-financed acquisition of a business by a charitable organization which is payable exclusively from its future earnings is a tainted sale. But the sweep of Commissioner v. Brown, 380 U.S. 563, is not unlimited, and we do not believe that either the logic or the intent of the Court's decision there compels a finding for the petitioners before us. The Supreme Court itself in Brown recognized the appropriateness of a contrary result in cases like Kolkey, 380 U.S. at 574, n. 7, and, in our view, there was here similarly lacking a bona fide sale.

Although our finding that petitioners have failed to prove the existence of a bona fide sale to Cathedral is conceptually sufficient to render the entire net proceeds of the transaction

taxable as ordinary income to Iris and Marian Kraut, the decisions to be entered herein will necessarily be limited by the Commissioner's computation in the deficiency notices. The Commissioner there determined an amount, $168,445.60, applicable to the selling price of the stock of Nassau (on the theory that there was a bona fide sale only to the extent of that amount), and only the proceeds in excess thereof, after deducting collection expenses of $63,098,07, and interest of $56,904.16, were deemed to be ordinary income to each of the shareholders. In the proceedings in this Court, the Commissioner contended alternatively that the entire transaction was lacking in bona fides -- a conclusion which we have found to be valid and which would justify charging petitioners with the entire net proceeds undiminished by any so-called true selling price of $168,445.60.[9]

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9. As noted above, p. ___, the Commissioner attempted to fix a selling price in terms of 10 times indicated taxable income. But, as pointed out in footnote ___, supra, such taxable income was $15,831.56, and 10 times that amount would be $158,315.60. Moreover, the usual method of computing value in terms of a multiple of earnings is to use an after-tax earnings figure, and if Nassau's $3,482.94 tax liability is subtracted from $15,831.56, there would remain net earnings of only $12,348.62. Accordingly, the 10 times earnings formula would yield a value of $123,486.20. It seems hardly likely that any greater multiple than 10 would be justified in the light of the fact that the stock was closely held, that the company's net assets were very modest in amount, that its only physical asset of any consequence was a second hand automobile, that its successful operation obviously depended upon the continued management of the enterprise by the Krauts, that it had such a brief history, and that its sole product was untested over a sufficiently lengthy period.

However, the Commissioner has not sought to amend the pleadings to ask for increased deficiencies, and in the circumstances the redetermination of deficiencies herein will be limited accordingly. Section 6214(a); Tax Court Rule 41(a) and (b). Cf. Commissioner v. Long's Estate, 304 F. 2d 136, 141-142 (C.A. 9), affirming an unreported Tax Court Opinion. We wish to add that in neither Commissioner v. Brown, 380 U.S. 563, nor in Louis Berenson, 59 T.C. 412, did the respective courts have before them an allocation by the Commissioner to the purchase prices therein, and our conclusion in these proceedings that the entire transaction lacked bona fides should not be interpreted as being inconsistent with the propriety of making an allocation if the facts in a particular case are thought to justify such action.

Due to concessions in another respect made prior to trial,

Decisions will be entered

under Rule 155.

Decision Re: No. 7663-70 ORIGINAL

JA 304

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UNITED STATES TAX COURT

AARON KRAUT and IRIS KRAUT, Petitioners,	)	
v.	)	Docket No. 7663-70
COMMISSIONER OF INTERNAL REVENUE, Respondent.	)	

DECISION

Pursuant to the opinion of the Court filed June 27, 1974, and incorporating herein the facts recited in the respondent's computation as the findings of the Court, it is

ORDERED and DECIDED: That there is a deficiency in income tax due from the petitioners for the taxable year 1967 in the amount of $240,787.08.

Judge.

Entered: FEB 21 1975

It is hereby stipulated that the foregoing decision is in accordance with the opinion of the Court and the respondent's computation, and that the Court may enter this decision, without prejudice to the right of either party to contest the correctness of the decision entered herein.

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1/17/75

Decision Re: No. 7664-70 ORIGINAL

JA 306

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DKT-2		
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SERV	✓	✓
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JUDGE	✓	✓
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FILES		

UNITED STATES TAX COURT

HARRY KRAUT and MARIAN KRAUT,)
)
Petitioners,)
)
v.) Docket No. 7664-70
)
COMMISSIONER OF INTERNAL REVENUE,)
)
Respondent.)

DECISION

Pursuant to the opinion of the Court filed June 27, 1974, and incorporating herein the facts recited in the respondent's computation as the findings of the Court, it is

ORDERED and DECIDED: That there is a deficiency in income tax due from the petitioners for the taxable year 1967 in the amount of $246,847.44.

Judge.

Entered: FEB 21 1975

It is hereby stipulated that the foregoing decision is in accordance with the opinion of the Court and the respondent's computation, and that the Court may enter this decision, without prejudice to the right of either party to contest the correctness of the decision entered herein.

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U.S. TAX COURT
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Notice of Appeal Re: No. 7663-70

UNITED STATES
TAX COURT
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UNITED STATES TAX COURT

AARON KRAUT and IRIS KRAUT, Petitioners,	)	
v.	)	Docket No. 7663-70
COMMISSIONER OF INTERNAL REVENUE, Respondent.	)	

NOTICE OF APPEAL TO THE UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT.

Notice is hereby given that petitioners AARON KRAUT and IRIS KRAUT hereby appeal to the United States Court of Appeals for the Second Circuit from the entire decision entered in this court on the 21st day of February 1975 relating to petitioners.

Dated: New York, New York
May 15, 1975

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Notice of Appeal Re: No. 7664-70

U.S. TAX COURT
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UNITED STATES
TAX COURT
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UNITED STATES TAX COURT

HARRY KRAUT and MARIAN KRAUT, Petitioners,	)	
v.	)	Docket No. 7664-70
COMMISSIONER OF INTERNAL REVENUE, Respondent.	)	

NOTICE OF APPEAL TO THE UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT.

Notice is hereby given that petitioners HARRY KRAUT and MARIAN KRAUT hereby appeal to the United States Court of Appeals for the Second Circuit from the entire decision entered in this court on the 21st day of February 1975 relating to petitioners.

Dated: New York, New York
May 15, 1975

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FILED MAY 22 1975

#4306

Affidavit of Service by Mail

In re:

Kraut v Commissioner of Internal Revenue

State of New York
County of New York, ss.:

Harry Minott,

being duly sworn, deposes and says, that he is over 18 years of age. That on July 9, 1975, he served 3 copies of the within Appendix in the above named matter on the following counsel by enclosing said three copies in a securely sealed postpaid wrapper addressed as follows:

Honorable Scott P. Crampton
Assistant Attorney General
Tax Division
U.S. Department of Justice
Washington, D.C. 20530
(Attorney for Respondent-Appellee)
Att: Jeffrey Blum, Esq.

and depositing same in the official depository under the exclusive care and custody of the United States Post Office Department within the City of New York.

and depositing same at the Post Office located at Howard and Lafayette Streets, New York, N. Y. 10013.

Harry Minott

Sworn to before me this ninth
day of July 1975

Jack A. Messina

JACK A. MESSINA
Notary Public, State of New York
No. 30-2673500
Qualified in Nassau County
Cert. Filed in New York County
Commission Expires March 30, 1977

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